

# CHEROKEE CITIZENSHIP

—AND—

## A BRIEF HISTORY

—OF—

Internal Affairs in the Cherokee Nation,

—WITH—

Records and Acts of National Council from 1871 to Date.

—TOGETHER—

With Decisions of the United States Interior Department—  
Reports of Special Inspectors and Agents—Garland's  
Decision and other Documentary Evidence.

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By W. J. WATTS,  
*President Cherokee Indian Citizenship Association.*

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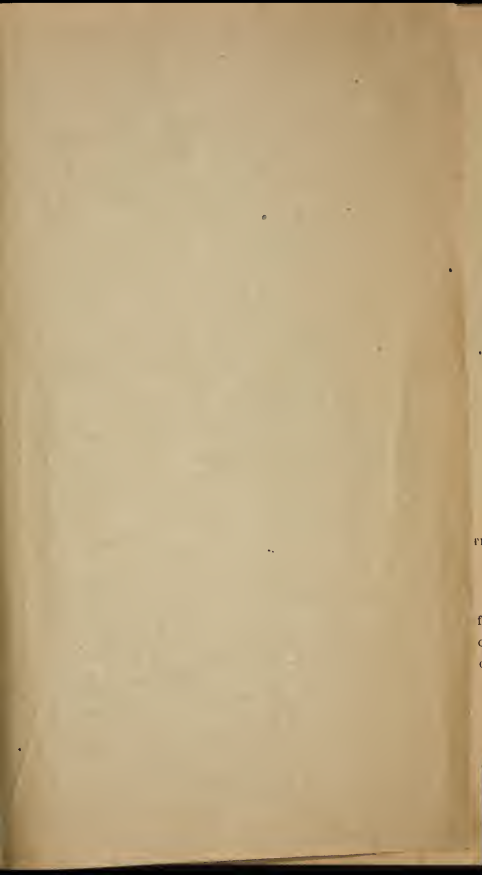
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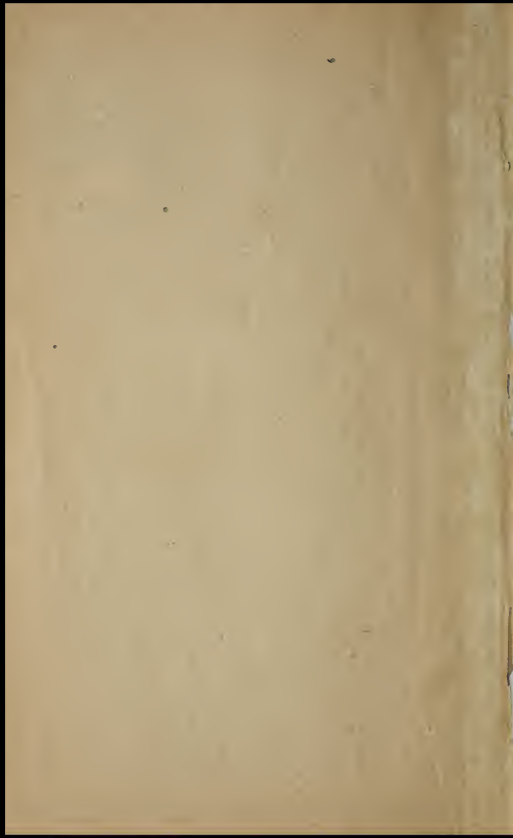
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W. J. WATTS.



PRESIDENT OF THE CHEROKEE INDIAN CITIZENSHIP ASSOCIATION,  
ORGANIZED IN 1883.

W. J. Watts was born in Tennessee in the year 1840 and is therefore 55 years old, but young looking for one of his years. His father was Malichi Watts, who was of Cherokee decent. Mr. Watts removed to the Cherokee Nation, Indian Territory. in the year 1871, where he has since resided.

Cherokee Nation to hear and determine all claims for citizenship, at which time, and in the year 1871, there was a great emigration of applicants to this nation, claiming citizenship, a great number of which were admitted to citizenship under the following act:

“Be it enacted by the National Council that all such Cherokees as may hereafter remove into the Cherokee Nation and permanently locate therein as citizens thereof, shall be deemed as Cherokee citizens; provided said citizens shall enroll themselves before the Chief Justice of the Supreme Court within two months after their arrival in the Cherokee Nation and make satisfactory showing to him of their being Cherokees. And the said Chief Justice is hereby required to report the number, names, ages and sex of all persons admitted by him to be entitled to Cherokee citizenship, and also the number, names, ages and sex of the persons denied the rights of Cherokee citizenship, to annual council in each year.”

This act was approved November 18, 1870. Owing to the fact that this act of the Cherokee Council extended a general invitation on the part of the Cherokee Nation, inviting all persons of Cherokee blood to come into the nation and be identified as such, there was a general emigration of claimants to this nation from all parts of the United States. In fact the emigration became so great that the Cherokee authorities became alarmed that their country might be overrun, after which it was nearly impossible for any claimant, regardless of character of proof in his case, to obtain action in his favor.

The act of November 18, 1870, was repealed by the National Council, December 7, 1871, making it the duty of the Chief Justice to take and hear testimony in all cases presented to him, and report the same to the next National Council.

This state of affairs was kept up until December 3, 1874, at which time the National Council passed what is known as the "Sweepstake Act," rejecting the claims of 67 families all in one batch, without investigating the claim of any one, of which the following is a copy:

"An act to remove certain persons herein named beyond the limits of the Cherokee Nation.

"1. Be it enacted by the National Council that the Principal Chief be, and he is hereby authorized, to request the United States Indian Agent for the Cherokees and other Indians to cause their immediate removal beyond the limits of the Cherokee Nation."

The following named persons who failed to establish their rights to citizenship or otherwise, to wit: "Be it enacted by the National Council that the sheriffs of the several districts be, and are hereby authorized, to sell after fifteen days' public notice, for ready cash or national warrants or certificates, to the highest bidder to citizens of the Cherokee Nation, all improvements of persons declared by the National Council to be non-citizens of the nation and subject to the removal as intruders and to pay the same into the treasury of the nation after deducting their lawful fee.

Dec. 3, 1874—L. B. Bell, clerk of senate; Chas. Thompson, president pro tem. of senate; Geo. O. Sanders, clerk of

council; John Blaylock, speaker pro tem.; W. P. Ross, principal chief. Concurred in December 3, 1874.

I hereby certify that the foregoing is a true and correct copy of the original act as now on file in the executive office of the Cherokee nation. This the 7th day of March, 1890.

CONNEL ROGERS, Ex-Sec'y C. N.

The majority of the claimants came into this nation in good faith under the invitation of the above act referred to, and in many instances persons who had been admitted to full citizenship by the court referred to above had their names placed on the intruder list, their property sold and confiscated under the above quoted act of the National Council.

Realizing the fact that the act above quoted was unconstitutional, and that an Individual Indian had the same right of protection under the treaty that a nation had, I refused to give up my home and my property and called upon the United States authorities for protection, which was granted. And this time Charles Thompson, then Principal Chief of this nation, was notified to return all property and improvements taken under the above act.

Many of those claimants from 1871 to 1875 had accumulated considerable wealth and opened up large farms, believing their rights to be genuine. On the 5th day of July, 1875, all the improvements belonging to this class of claimants were sold by the sheriffs of several districts. In some cases possession was given to the purchasing party, who paid but a few dollars for improvements which had cost thousands of dollars.

Many of these persons who had been admitted to full citizenship by the Supreme Court and the Chief Justice of the

Cherokee Nation under the act of November 18, 1870, had erected large school and church buildings, where their children were allowed to attend the Cherokee schools. In 1875 all of the children of that class were expelled from those schools, owing to the bogus legislation had by the council. The school directors and trustees, notwithstanding the act of council depriving those people of their just rights, allowed these children to attend the public schools, until 1877, at which time the children were driven from the schools.

Soloman Watts, my brother, whose daughter had been attending the Female Seminary for several years, informed the Interior Department of the action, and received the following letter:

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MUSKOGEE, Ind. Ter., }  
September 26, 1877. }

*Solomon Watts, Fort Smith, Ark.*

SIR: In reply to yours of the 24th inst., in regard to the refusal of the Cherokee authorities to allow your daughter the benefits of education at their seminary, and stating that you had taken her out of the school, I have to say, that by instructions from the Commissioner of Indian Affairs, dated May 3, 1877, the "Watts Family" have presented the necessary evidence to prima facie entitle them to citizenship. If you belong to this family to which the commissioner refers, your daughter has a legal right in the seminary.

Very respectfully,

S. W. WARSTON,  
U. S. Agt.

In 1878 Thos. Blackard, who had married one of the Watts girls, was reported as an intruder and received orders to leave the nation in ten days. Mr. Blackard notified the Indian Agent that he had married one of the Watts women, who was a Cherokee citizen and asked the agent to revoke the order served on him to leave the nation, and received the following letter: \*

— — — — —  
 MUSKOGEE, Ind. Ter., }  
 April 3, 1878. }

*To Thomas H. Blackard, Buckner, Cherokee Nation.*

SIR: Finding by the correspondence of the Department that the citizenship of the Watts Family in the Cherokee Nation has been established by prima facie evidence, and your wife (the daughter of Solomon Watts) being, therefore, a Cherokee, I do hereby revoke the order issued and served on you to leave the Indian country.

Given under my hand day and date above written.

S. W. MARSTON, U. S. Agent.

— — — — —

In 1877 I was arrested by a Cherokee sheriff for violating the intercourse law, selling General Merchandise in the Cherokee Nation, without licenses. My store was closed and I was taken from my home and business and closely guarded by four Cherokee guards for thirty-two days. Finally my case was submitted to Judge I. C. Parker, judge of the western district of Arkansas, and I was discharged for want of jurisdiction. My merchandise and store house was released and I proceeded with my business.

The question of citizenship in this nation went from bad

to worse from 1875 to 1880, at which time the Cherokee authorities, through their delegates and council, made a strong appeal to the United States government for the removal of all persons from the nation which the Cherokee authorities called intruders.

On January 20, 1880, the parties who purchased my improvements under the above quoted confiscation act, took possession of one of my improvements on the Arkansas river, which was worth at least \$2,000, which he had purchased at the sheriff's sale for \$15. I immediately notified the Hon. Secretary of the Interior and Commissioner of Indian Affairs, whereupon they addressed me the following letter:

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DEPARTMENT OF THE INTERIOR,  
Office of Indian Affairs, }  
WASHINGTON, D. C., Jan. 28, 1880. }

*Mr. W. J. Watts, Fort Smith, Ark.*

DEAR SIR: I am in receipt of your letter of the 20th inst., in which you state that you have been dispossessed of your home and improvements in the Cherokee Nation under an order of seizure issued by the chief in 1875, upon the rejection of the Cherokee courts of your claim to citizenship in said nation, and asking this office for advice as to what course you should pursue to recover your property. In reply you are informed that the Principal Chief of the Cherokee Nation has this day been telegraphed to direct the sheriff of Sequoyah district to restore the property taken from you without delay, and if this is not done within a reasonable time you will notify this office.

Very respectfully,

E. A. HAYT, Commissioner.

Realizing the fact that the life interest of my family and others whom I was representing, was in peril, I immediately proceeded to Washington, before the Department of the Interior, and laid my case before them. The Hon. Secretary of the Interior and Commissioner of Indian Affairs kindly said that the INJUSTICE which the Cherokee authorities had been perpetrating upon claimants should be looked into and righted, and notwithstanding a powerful delegation from the Cherokee authorities were pressed to urge the removal of those I represented, the Department of the Interior decided in my favor, and issued an order restraining the Cherokee authorities from further action on the citizenship question, until some definite plan could be adopted by which the question might be settled. Expenses incurred in this business up to this time had been mostly paid by myself and family and was quite a burden.

Realizing the importance of keeping an able attorney and delegation at Washington to guard our interest and being without money to pay the same, myself and several other leading claimants set to work to organize the claimants into an organization for mutual benefit and protection. The following extract from the constitution and by-laws shows the object of the association:

1. Projecting and securing a uniform plan and procedure to finally try all this class of claims and applications of such rights in the Cherokee Nation.

2. To secure protection to all claimants who are exposed, threatened, attacked, and prosecuted by Cherokee authorities and others in their rights.

3. To raise and collect from time to time sums of money

to pay incurred expenses in this service and labor.

On this principle the Cherokee Citizenship Association was organized, which is founded upon right and justice, and has grown in numbers and influence, and stands today on a basis that must be respected on treaty principles. I have the honor of being one of the representatives of this association, and have ever labored for its interest and welfare, in all its rights, honorable and just, laying before the Interior Department the facts in our case, and asking only for justice, and I am proud to say we have ever succeeded in all our appeals to the authorities at Washington, who have all along recognized the justice of our cause.

Furthermore, I can say that this association has never held out any inducements to persons who could not show Cherokee blood or descent to join this organization. Persons have joined this association who found it impossible to obtain a hearing from the Cherokee Council. That the courts and commission on citizenship for the past ten or fifteen years has failed to give satisfaction to claimants of the Cherokee Nation, and that the plans suggested by the Interior Department at Washington have been ignored by the Cherokee authorities, no one will deny.

The association is composed of several classes of claimants :

1. Those who were admitted by the Chief Justice of the Cherokee Nation under the act of council, November 18, 1870, and afterward decided against by the council.

2. Those who have prima facie evidence, and hold what is known as prima facie certificates of Citizenship, furnished them by the U. S. Indian Agent prior to August 11, 1886.

3. Those who have positive proof of their Cherokee blood.

4. Those who have a sufficient amount of circumstantial evidence to gain a suit before any competent and impartial court.

There are now about 9,000 of the claimants mentioned in this Territory, most of whom are living in the Cherokee nation. The question will now arise in the minds of the reader—from whence came all these claimants? To answer this question I will refer the reader to some official facts and figures.

Gen. Wool, in his report to the Interior Department at Washington in 1835, gave the following statistics regarding the Cherokee Indians :

North Carolina.....	6,000
Tennessee.....	3,000
Georgia.....	8,000
Total.....	<hr/> 17,000

In addition to the above there were about 2,000 who had left the reservation to prevent removal west, whose names were not placed on the official rolls of 1835. Those people went into most every state in the Union, and have been increasing since 1835. These people have not been ignorant of the treaties and their birth-rights, and have been coming to this nation for the past twenty years, claiming their rights under treaty stipulations.

Article 1st of the treaty of 1846 cites that "the lands we now live upon shall be secured to the whole Cherokee people, for their common use and benefit."

The 10th article of the treaty says: "It is expressly

agreed that nothing in the foregoing treaty shall be construed as in any manner to take or abridge any right or claim which the Cherokees now residing in the states east of the Mississippi river have, or may have under the treaties of 1835, or the supplement thereto."

Article 5th of the treaty of 1835 provides that the Cherokees "may enact any law not inconsistent with the laws of the United States."

The above quoted language of the treaty and rulings of the Supreme Court of the United states on the question of citizenship is so plain that any one who has a just claim for citizenship need not be at a loss to prosecute his claim to a final terminus. Here is the language used:

"Taking the grounds that as the treaties with the Cherokees were not made with the Cherokee Nation but with the whole Cherokee people, by which the government was bound in the execution thereof to see that every individual member of the tribe was fully protected in his rights thereunto." (5 Opinion of Atty. Gen. 320) and that a Cherokee could not expatriate himself or be expatriated by the Cherokee authorities. (Opinion Atty. Gen. 296 297, taken in connection with decision of the Supreme Court, 6 Peters 1) "he must be wherever he resides within the limits of the United States, without respect to degree of consanguinity, regarded a Cherokee citizen, with inalienable, vested interests in the property and funds of that nation."

The Indian Office declined, in a letter dated December 8th, 1886, to Chief Thompson, principal chief of the Cherokee Nation, to take action looking to removal of claimants from

said Nation, who could establish *prima facie*, their rights to remain there as citizens.

Thus it may be seen that a Cherokee Indian cannot disconnect himself from his tribe by his own voluntary acts, neither can any act of the Cherokee Council disfranchise him or deprive him of any rights guaranteed him by treaty stipulations, which are the same as any other Cherokee.

From 1875 to 1889 there were several courts and commissions created by the Cherokee Council to hear and determine citizenship claims, all of which proved to be very unsatisfactory to claimants and the Cherokee Nation, also to the Indian Department.

In 1888 the Cherokee authorities proceeded to confiscate the improvements of one John Kesterson, whose wife was a Cherokee woman who was brought to this country from the old nation east by the United States Government. The Interior Department was notified of the proceedings of the Cherokee authorities against Kesterson, when they addressed the following letter to Agent Owen :

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DEPARTMENT OF THE INTERIOR,  
Office of Indian Affairs, }  
WASHINGTON, August 24, 1888 }

*R. L. Owen, Esq., U. S. Indian Agent, Muskogee, I. T.*

SIR : Referring to my telegram of date yesterday, and to previous correspondence, relative to the case of John Kesterson against the Cherokee Nation, for the recovery of certain improvements forcibly taken from him and sold at auction by a sheriff of that nation, I have to say, that under date of July

14, 1888, this office reported the case to the Department of the Interior, asking instructions in the premises.

A copy of the Hon. Secretary's letter of the 21st instant, in reply thereto, is herewith enclosed for your guidance in this matter, and from which you will observe that it is held by the Department that when the Cherokee Nation, by its constituted authorities, decided Kesterson's claim to rights of citizenship in that nation, against him, it thereby determined his status to be that of a non-citizen of the said nation, or as an intruder therein, "and as such non-citizen or intruder, the Cherokee Nation has no jurisdiction over his person or property, and consequently the action and proceedings of its authorities in selling said property and dispossessing him of it, are not warranted by any stipulation of their treaties securing to them the right of self-government."

While prosecuting his claim, Kesterson enjoyed his residence therein by sufferance or implied permission of the Cherokee Nation, but when his claim was decided against him, such decision operated as a withdrawal of this consent or permission, and he thereby becomes an intruder in said nation to be dealt with under the provisions of article 27 of the treaty of 1866 (14 Stats. 806): "He, however, must be dealt with as an intruder in the light of the facts in his case."

"Having gone there in apparent good faith upon the invitation of the nation, made valuable improvements while suffered or permitted to remain there, the department will not cause or suffer his removal to be made in such summary or sudden manner as to work great harm and loss to his property and unnecessary inconvenience and hardship personally to

himself and family. He is entitled to the protection of the government of the United States in a proper way as a citizen, as he is not admitted to the Cherokee nor under their jurisdiction; and this protection is peculiarly necessary in such a case. He is entitled to a reasonable time and opportunity in view of all the circumstances of his long residence and labor there, to dispose of his property, or remove it, as may be most suitable to its character, and to gather his crops now growing."

"In this case, Kesterson, being no longer under Cherokee license, must be removed as an intruder. But his property must be restored to him and reasonable opportunity given him to dispose of or remove it." (Secretary's letter.)

You are hereby directed to communicate the views of this department to the proper officers of the Cherokee Nation, and obtain from them the immediate restoration of Kesterson's property and put him in possession of the same, and at the same time advise him that he is now in the Cherokee country without proper authority, and that his removal therefrom has been requested by the Cherokee authorities. You will also notify him that he must dispose of his improvements, remove himself, his family, and movable property from the Cherokee Nation within a reasonable time, unless he shall show to you full satisfaction, that he has obtained the consent, in writing, of the proper Cherokee authorities, to continue his residence in their country, at or before the expiration of the time fixed for his removal.

Your attention is called to that part of the honorable secretary's letter by which this office is directed to instruct you "that as this right of Kesterson's to the disposition of his

property is necessarily short-lived, limited and tenuous, so it should be the more perfectly considered and protected, and every circumstance turned rather to make it efficacious and valuable than to weaken or impair it. Kesterson ought to have approximately the full, fair value of his property, and the cessation of his status in the territory ought not to be made a means of depriving him of any of his property or of its value, except in so far as is unavoidable with fair consideration. The time necessary to do this may vary with circumstances. If attempt be made to take unfair advantage, the time should be extended. It appears to the department that it should not be limited to less than six months in any case."

You will report fully your action in assisting Mr. Kesterson to regain his property, and the result thereof, to this office, as also Kesterson's action in disposing of and removing his property, etc.

These instructions apply with equal force in the cases of David Baker et al., W. J. Watts et al., Mrs. Polly Goins and any others that are now pending, or may arise, involving the same questions. Time should be allowed claimant, from the date of your notification to him, to dispose of his property and remove, and not from the date of the decision of Cherokee courts, you are not bound to be governed by the law of the Cherokee Nation in dealing with these cases. (XVI. Opinions Attorney General, page 404 :

Very respectfully,

(Signed,)

A. B. UPSHAW,

Murchison.

Acting Commissioner.

It will be observed that the rights of Kesterson and wife was set aside by an act of the National Council creating a commission to hear and determine applications for citizenship created soon after the publication of the decision of the Supreme Court in the case of the Eastern Band of Cherokees vs. United States and Cherokee Nation (117 U. S. Rep., 311), wherein it was held that "if the Indians in that state, North Carolina or any other state east of the Mississippi, wish to enjoy the benefits of the common property of the Cherokee Nation, in whatever form it may exist, they must, as held by the Court of Claims, comply with the constitution and laws of the Cherokee Nation and be readmitted to citizenship as there provided."

"The provisions of the Cherokee law were reviewed by the Commissioner, who reported that, "So far as this Act may result in determining the status of any doubtful citizens in the Cherokee Nation, and the recognition of the rights of such as may be admitted to citizenship, I see no objection to it.

"But I cannot recommend that the adverse decision of the commission shall be treated as final by the department so as to require the removal of the party as an intruder.

"In such cases the Department should, I think, require the submission of the testimony, so that if injustice should be done in any case, the removal of any person unjustly denied admission to citizenship should be refused.

"I should also be unwilling to recommend the removal of any person who came into the nation in good faith until he had been paid a fair value for his improvements. \* \* \*

"As the Cherokee Nation has seen fit to take the determi-

nation of the claims into its own hands, I do not see that any action is necessary on the part of the Department, except to inform the Cherokee authorities that it will determine for itself whether or not any person shall be removed as an intruder, and that it will not permit any person to be deprived of his improvements without a fair consideration for the same..'

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Department of the Interior,        )  
Office of Indian Affairs,        )  
WASHINGTON, March 25, 1887.    )

“Copy.

“*The Commissioner of Indian Affairs.*

“SIR: This department has received your report submitted with your views therein, an Act of the Cherokee National Council, approved December 8. 1886, entitled an ‘Act providing for appointment of a commission to try and determine applications for Cherokee citizenship.’

“After a recital of the main provision of the Act, and referring to the recent decision of the Supreme Court in the case of the ‘Eastern Cherokees, Appellants, vs. the United States and the Cherokee Nation, Appellees, (117 U. S. Reports, 311) you remark that

“ ‘As the Cherokee Nation has seen fit to take the determination of the claims into its own hands, I do not see that any action is necessary on the part of the Department, except to inform the Cherokee authorities that it will determine for itself whether or not any person shall be removed as an intruder, and that it will not permit any person to be deprived of his improvements without a fair consideration for the same.

"Your conclusion on the subject is concurred in by this Department, and the papers are herewith returned.

Very respectfully,

H. L. MULBROW,  
Acting Secretary.

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The Arkansas Valley Railroad Company began the construction of this railroad, and had graded out some twenty miles from Fort Smith, Arkansas, in a northwesterly direction, intersecting and crossing the farms and improvements of Willis and Isaac Jacobs and Ganes Simcoe, in the Indian Territory, and Cherokee Nation, and who all are Cherokees and residents and citizens of the Cherokee Nation, and that by reason of the said railroad intersecting and crossing the aforesaid lands and farms in the manner, it injured it for farming and stock uses and purposes, it was proposed to induce the said railroad company to make a station on the said railroad and organize and build a town or village. To do so, Charles Fargo, Wilson O. Bruton and John W. Breedlove, all Cherokees and Cherokee citizens, residing in the Cherokee Nation, organized, and were made a committee, called a "town committee," to negotiate and purchase a sufficient amount of land from the aforementioned Jacobs and Simcoe, subdivide the said land, after purchase, into town lots and sell the same to persons to build on and occupy as dwelling houses or places of business. This committee purchased of the said Jacobs and Simcoe eight acres of their land lying along and situated on both sides of this railroad, and which was before and at the time owned and occupied

by them each as their farms and homesteads, and which was segregated and held by them in compliance with the constitution and laws of the Cherokee Nation from the public domain of the Cherokee Nation, Indian Territory, and platted and laid the same off into small building lots, selling the lots to persons who would engage to build on the same and occupy the same for dwelling and business purposes ; that the said station and town was named Muldrow, in honor of Col. H. L. Muldrow, the First Assistant Secretary of the Interior ; that at the said time I bought two lots and put up a store (a wood building) costing me three hundred and fifty dollars, and put in a stock of general merchandise ; that my sister, Delila Watts Boyett, bought one lot, and built thereon a one-story wood cottage, of four rooms, costing her about four hundred and forty dollars, and moved into the same and occupied the same as her home and dwelling house, finishing and moving into her house in the month of May or June, 1888. A nephew of mine, S. M. Watts, purchased a lot and put up a dwelling house, and occupies the same.

At the time of the purchasing of the said land by the aforesaid town committee from said Jacobs and Simcoe, and the sale of the rights to occupy and build on the said town lots by the said town committee to the said Watts claimants and others, the Cherokee authorities well knew that the said land did not belong to the Cherokee public domain, and that it was before and at said time occupied as a homestead and farms of the aforementioned Cherokee citizens under the authority and provisions of the constitution of the Cherokee Nation, and the laws of the Cherokee National Council, the treaties and laws of the United States Government.

The Watts family occupied their said building from the time of the completion of the same, without hindrance, objection or molestation from the Cherokee authorities, until R. L. Owen, the U. S. Indian agent, made his unauthorized decision and sustaining the Cherokee authorities, and that on the 3d Monday of September, 1888. the said Cherokee authorities, under the orders of the said R. L. Owen, made a public sale of said buildings to citizens of the Cherokee Nation ; that at said time Mrs. Boyett's house was struck off for two hundred dollars, and my building one hundred dollars, but at said time no money was paid, but an understanding or agreement was made by the Cherokee sheriff and the pretended purchaser that no money was to be paid until said R. L. Owen had dispossessed the said Mrs. Boyett and myself.

Prior to the said sale of our property I drew up in writing a full statement, showing in detail that the said townsite of Muldrow, and the lots of myself and Mrs. Boyett were not on the Cherokee public domain, and filed the same with the said R. L. Owen and informed the Indian Bureau of the rules and confiscation, and that the Commissioner of Indian Affairs acted promptly by telegraphing said Owen to prevent sale which telegram is as follows :

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Office of Indian Affairs,        }  
                                 WASHINGTON, D. C.,       }  
                                 August 25, 1888.       }

*To Owen, Agent, Muskogee, Ind. Ter.*

Prevent sale of Watts' property by Cherokee sheriff. See

telegram twenty-third and letter twenty-first instant on the general subject.

“A. B. UPSHAW,  
“Acting Commissioner.”

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To this message the said R. L. Owen made the following reply :

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MUSKOGEE, Ind. Ter., . }  
August 25, 1888. }

“*Commissioner of Indian Affairs, Washington, D. C.:*

“Have issued proper orders in Watts’ cases and will promptly enforce instructions generally.

“OWEN,  
“Agent.”

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R. L. Owen disregarded the instructions of the Commissioner of Indian Affairs and his promise thereto made, and did on the said time allow the Cherokee sheriff to sell or pretend to sell our property.

That on the 10th day of December, 1888, the said R. L. Owen, as United States Indian Agent, instructed the United States Indian Police, David M. Lee, to notify myself and Mrs. Boyett, that we must vacate said houses and ordered the said police to put the purchasing parties in possession in five days.

Relying on the protection of the Interior Department and Indian Bureau, we did not comply with the said notice and

order, but remained in occupancy of the aforesaid buildings, but sent communications to the Indian Bureau direct, detailing the outrage threatened; on the said 15th day of December, which was five days afterwards, about 2 o'clock in the evening, the said David Lee, Mitchell Ellis, United States policemen, and Thomas Blair, sheriff of Sequoyah district, and several others composing a mob all armed with revolvers and Winchester rifles (fire-arms and weapons), and without further notice came and demanded possession of our houses and keys; we replied that this was our house and home, had no other place to go; that we would not vacate our house and home or turn over to them our keys; whereupon the said policemen and mob proceeded to take up violently the household goods and effects of Mrs. Boyett, carry them out of her house, and put them over the fence into the street, and that at said time it was raining very hard, doing great damage to Mrs. Boyett's goods and effects. After her goods and household effects had been thus removed from her house and home, Policeman Lee demanded again of Mrs. Boyett her keys to her home. She again refused whereupon the police drew their revolvers, weapons and fire-arms, and guns, forcibly, and with arms drove all out of the house and nailed up the outside doors of the house. By the kindness and sympathy of some of the neighbors Mrs. Boyett was offered shelter for herself and damaged goods and household effects, which she availed herself of.

That while this eviction was being made, the sympathies of citizens and non-citizens alike were expressive and demonstrative in favor of Mrs. Boyett. Many expressed themselves as determined to interfere and stop the police officers and mob

in this eviction, and the feeling ran high against Agent Owens' transparent, iniquitous acts in the premises, and would have resorted to the use of force and fire-arms but for the advice, instruction and exertion of myself in behalf of peace and good order.

That by the time the police had completed the eviction of Mrs. Boyett, it was late in the day, raining hard, and dark. They offered me additional time to vacate, which I did, in the interest of peace and order, accepted the extended time so given, and at a great sacrifice sold my stock of merchandise and turned over my building to the said policeman.

No money was paid by the bidder or pretended purchaser to the Cherokee sheriff at the time the property was exposed for sale, but an agreement or understanding was made by the said bidder or purchaser with the sheriff, to pay him the money when the United States Indian Agent, R. L. Owen, should put them or said bidder or purchaser into possession of these buildings.

This was confiscation of property pure and simple, with no resource or redress or consideration, and to be enforced and observed at the point of the revolver and rifle if resistance was made.

That afterwards, to-wit., the 28th day of January, 1888, the Commissioner of Indian Affairs ordered R. L. Owen to restore and replace us in possession of our houses, but that he, the said R. L. Owen, neglected, refused and ignored the orders to him directed; that afterwards the Commissioner of Indian affairs telegraphed R. L. Owen inquiring what had he done towards restoring our property; that the said R. L. Owen

replied that, so far as he knew or understood, Watts and Mrs. Boyett were in possession of their property at Muldrow.

At this time we were without a remedy or redress to recover our said property, or to protect ourselves against the designs, machinations and acts of the said Cherokee authorities and the said R. L. Owen, except by the authority, power and jurisdiction of the Commissioner of Indian Affairs and Secretary of the Interior.

At this time I proceeded to Washington City, and laid before the Department of the Interior the true condition of the affairs, and the action of Agent Owen, in sustaining the Cherokee authorities in their proposed confiscation.

## GARLAND'S REPORT.

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SHOWING THAT THE WATTS FAMILY AND ALL OTHER PERSONS  
ADMITTED TO CHEROKEE CITIZENSHIP BY CHIEF JUSTICE  
VANN'S COURT ARE CITIZENS OF THE CHEROKEE NATION.

On the 7th day of January, 1889, the Honorable Secretary of the Interior submitted the question to Attorney General Garland for his opinion as to the act of the Cherokee National Council in setting aside the decision of the Supreme Court of the Cherokee Nation. On January 23d the Attorney General submitted to the Secretary his opinion, which reads as follows :

Department of Justice,  
WASHINGTON, D. C., }  
January 23, 1889. }

*The Secretary of the Interior.*

SIR: I have received your communication of the 7th instant, which is in the following language:

"I have the honor to hand you herewith a copy of an act of the legislature of the Cherokee Nation in 1870 in relation to

the admission to Cherokee citizenship of North Carolina Cherokees, in which it is provided,

That all such Cherokees as may hereafter remove into the Cherokee Nation and permanently locate therein as citizens thereof, shall be deemed as Cherokee citizens provided such Cherokees shall enroll themselves before the Chief Justice of the Supreme Court within two months after their removal in the Cherokee Nation and make such showing to him of their being Cherokees, and the said Chief Justice is hereby required to report the number, names, ages, and sex of all persons admitted by him to be entitled to Cherokee citizenship, and also the number, ages, and sex of the persons denied the rights of Cherokee citizenship, to the annual session of the National Council in each year,

and thereupon to solicit your opinion upon the following questions :

“1. If a North Carolina Cherokee removed into the Cherokee Nation and permanently located there subsequent to the date of Act, and within two months of his removal made satisfactory proof of his character as a Cherokee to the Chief Justice, and by him admitted, was he thereby fully invested with the rights, privileges and immunities of Cherokee citizenship, or did there remain in the council, or legislature, or other authorities of the Cherokee Nation a right of supervision over the act of the Chief Justice so that the question remained dependant on future determination by superior authority.

“2. If a North Carolina Cherokee admitted within the time and according to the terms of the foregoing Act, after permanent location according to its requirments, should be.

some years subsequently, declared by a commission established by the Cherokee legislature to inquire into the claims of residents in the nation to citizenship, to be not properly entitled to such citizenship, is the department under obligation to respect the later decision of the Cherokee authorities, and, upon the demand of the Principal Chief, to remove such person as an intruder under the existing treaties between the United States and the Cherokee Nation?"

In answer to the first question propounded, I beg leave to say that, a North Carolina Cherokee removed into the Cherokee Nation, as stated in such question, and who made proof, as therein named, was thereby fully invested with the rights, privileges and immunities of Cherokee citizenship. This was a species of naturalization resorted to by the legislature of the Cherokee Nation in 1870, and would stand, to that extent, precisely as a judgment of a court under an act of Congress conferring citizenship in the United States upon a foreigner or an alien, and closes all inquiry, and like every other judgment, is complete evidence of its own validity. (Spratt vs. Spratt, 4 Pet. 406.)

Or to state it a little more broadly, a judgment in this proceeding by the Chief Justice of the Supreme Court of the Cherokee Nation was in the exercise of a special jurisdiction conferred upon him, and comes within that familiar rule, that when a special tribunal is authorized to hear and determine certain matters, its decisions within the scope of its authority are conclusive.

I find, from the papers submitted, no authority to supervise this act of the Chief Justice, and I certainly think there is

none. The right of citizenship is determined in this proceeding, and becomes an adjudicated matter, and to leave it an open question for review by the legislature or council or other authority, would be to unsettle every right of citizenship based upon that Act. In this, as in all other things, there must be a termination, an ending somewhere, and the proper construction of this act is that the judgment of the Chief Justice rendered according to the terms of such Act, is the final determination and leaves nothing for review. These principles of law would apply, if possible, with more force here than in ordinary cases, because it appears from the papers submitted, that the Cherokee Council invited the North Carolina Cherokees to come to the Cherokee Nation and to become identified therein as citizens, and this plan of making them citizens was adopted to carry out the purpose of that invitation.

And it therefore follows, as a consequence, in reply to your second inquiry, that the Department of the Interior is under no obligation to respect the decision of the Cherokee authorities in pursuance of the order of a commission, established by the legislature, to inquire into the claims to citizenship of these persons adjudged to be citizens, as designated in the first named inquiry. The right of citizenship cannot be forfeited by legislative act directly or indirectly no more than can be the right of property.

As requested by you, I herewith return the copy of the law of the Cherokee Nation.

Very respectfully,

A. H. GARLAND,

Attorney General.

## COMMISSIONER OBERLY'S LETTER.

After this opinion was rendered, on February 4, 1889, the Honorable Commissioner, John H. Oberly, addressed the following letter to Agent Owen :

(Copy) Department of the Interior,  
Office of Indian Affairs, }  
WASHINGTON, D. C., February 4, 1889. }

*R. L. Owen, Esq., U. S. Indian Agent, Union Agency, Musko-gee, Ind. Ter.:*

SIR: Referring to my telegram of January 28, 1889, directing you to permit all persons admitted to Cherokee citizenship by the Chief Justice under Act of Cherokee Council of 1870, to remain in that nation, and to protect all such in the possession of their improvements, etc., I enclose, herewith, copy of a letter of January 24, 1889, from the Secretary of the Interior, in reply to office reports of October 20, and December 21, 1888, relative to the claim of W. J. Watts and others to rights of citizenship in the Cherokee Nation, and to the request of the authorities of that nation for their removal therefrom as intruders.

It will be observed therefrom that the question whether the action of the Chief Justice under the law in question in the Watts case did not confer absolutely the rights of citizenship upon those claimants, was raised, and that the Department submitted for the opinion of the attorney General the questions "whether there remains in the council or legislature or other authorities of the Cherokee Nation, the right of supervision over the act of the Chief Justice under the Cherokee law of 1870, which clothed that officer with certain powers in relation to the admission into Cherokee citizenship of North Carolina

Cherokees," and whether the Department is under any obligation to respect a later and adverse decision of the Cherokee authorities, and upon demand of the Principal Chief to remove a person, admitted to citizenship under that law, as an intruder under the existing treaties between the United States and the Cherokee Nation.

The Attorney General replying under date of January 23, 1889, expressed the opinion that no authority to supervise the action of the Chief Justice in this matter, existed in the Cherokee authorities, and that the Department is under no obligation to respect the decision of the Cherokee authorities in pursuance of the order of a commission, established by the Cherokee legislature, to inquire into claims of citizenship, of those persons adjudged to be citizens, "as designated in the first named inquiry."

This fixes the status of claimants who were admitted to citizenship by the Chief Justice under the said Act of 1870, so far as this Department is concerned, to be citizens of the Cherokee Nation, and as such citizens they will be permitted to remain therein, and will be protected in the possession and enjoyment of their property.

You will furnish the Principal Chief of the Cherokee Nation with a copy of the Attorney General's opinion, a number of which are herewith enclosed, and advise him that this Department will expect the Cherokee Nation to return all property taken from claimants of this class, or where such specific return is not possible by reason of the conversion of said property, or intervening rights of innocent purchasers, make reasonable compensation therefor.

In all such cases where, property having been taken, the Cherokee Nation refuses to return the same or make reparation by compensation therefor, you will submit a report of the facts to this office, giving the name of claimants and the amount of property taken from each.

You will give due publicity, without cost to the Government, to the opinion of the Attorney General in this matter and to the position taken by the Department thereon, and where, under your instructions of August 24, 1888, in the Kesterson case, you have notified claimants of the class referred to herein, that they will be required to dispose of their improvements in the Cherokee Nation and remove therefrom, you will recall such notices, and permit the said claimants to proceed, without hindrance, with the cultivation of their farms.

Very respectfully,

JNO. H. OBERLY,

Commissioner.

(Murchison.)

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On my return from Washington, D. C., our property was restored to us. After this time it was generally believed by the Interior Department and the claimants in whose favor the opinion was rendered, that it would forever set at rest all further questions as to the status of that class of claimants. A Cherokee delegation, accompanied by Chief Joel B. Mayes, was then in Washington, D. C. They immediately called upon Mr. Garland with a memorial, praying that the case be opened, stating among other things that Watts and his attorneys had taken undue advantage of the Cherokee delega-

tion by demanding a hasty opinion of the Attorney General, stating that the Watts family was not admitted to citizenship under the Act of the Cherokee Council of November 18, 1870, but came into the nation in 1872, and applied for citizenship under the amended Act of December 7, 1871. On their statement Attorney General Garland recommended to the Honorable Secretary of the Interior that the case be reopened that the Cherokee authorities might have an opportunity to present the facts in the case as above alleged, but further recommended to the Honorable Secretary in order to arrive at the facts in the case, that a reliable agent be detailed from the Department who would go to the Cherokee Nation and make a thorough investigation of the Watts case in order that the facts be ascertained; whereupon the Commissioner of Indian Affairs addressed the following letter to Hon. George W. Parker, special U. S. Inspector. At this time I was in Washington City representing the Watts family and others, and was informed of the recommendation to reopen the case, to which I did not object, knowing that I could sustain every allegation I had made.

The investigation was deferred until 1890, and was held at Talequah, capital of the Cherokee Nation, and continued for twenty-three days, closing March 11, 1890. The Cherokee Nation was represented by Col. William Boudinot, R. F. Wyley and others, while I represented the Watts family. Here is the letter :

## INSTRUCTIONS TO COMMISSIONER PARKER.

Department of the Interior,  
Office of Indian Affairs,  
WASHINGTON, D. C., Nov. 6, 1889. }

*Geo. W. Parker, Esq., Chilocco, Ind. Ter.*

DEAR SIR: Enclosed herewith find a letter of March 2 1889, from the Secretary of the Interior, and other correspondence and papers in relation to the claim of W. J. Watts and others to rights of Cherokee citizenship.

It will be observed from the papers that the Watts family claims to have been admitted to citizenship by late Chief Justice John Vann, under a law of the Cherokee Nation dated November 18, 1870, which conferred citizenship on all such Cherokees as should thereafter remove into the Cherokee Nation, and permanently locate therein, who should enroll themselves before the Chief Justice of the Supreme Court within two months after their arrival into the Cherokee Nation, and make satisfactory showing to him of their being Cherokees. And that on the other hand the Cherokee authorities claim that by an act of council of December 7, 1871, and prior to the decision of the Chief Justice in the Watts case, the law of 1870, as above referred to, was amended so as to limit the power of Chief Justice in citizenship cases to taking of evidence only and report the same to National Council for final disposition, and that the Watts claimants were never admitted by said council.

The Attorney General, in his opinion of January 2<sup>d</sup>, 1889, held the law of the Cherokee Nation of 1870, conferred a special jurisdiction upon the Chief Justice of the Cherokee

Nation; and that a judgment of the proceedings of the Chief Justice of the Supreme Court of the Cherokee Nation was in the exercise of special jurisdiction, and comes within that formula rule, that where a special tribunal is authorized to hear and determine certain matters, its decision within the scope of its authorities are conclusive.

The Watts family claim the benefit of this opinion as extending to their case, while the Cherokee authorities deny that they are entitled to any such benefits; their rights to citizenship never having been recognized by the Chief Justice, because he had no authority of law, nor by the National Council.

As soon as you have completed the duties herewith assigned you, you will proceed to the Cherokee Nation, and make a thorough investigation of the matter in respect to the fact touching the alleged legislation and judicial proceedings affecting the status of W. J. Watts, and the members of his family, and in respect to the circumstances of his continued residence in the Cherokee Nation; and also regarding the judicial action alleged to have been taken by the Chief Justice of the nation, and by the commission subsequently established; giving particular attention to the dates of the several transactions, as they may become material in the determination of the matter. The object of this investigation is to determine the question of justice of facts as to when the Watts claimants entered the Cherokee Nation; when they applied to the Chief Justice for citizenship; what action was taken by the said Chief Justice on such applications and when. Also as to the alleged legislation affecting the status of these claimants:

whether the law of November 18, 1870, under which they claim to have acquired citizenship, was amended as alleged.

It is stated that the records of Judge Vann's proceedings in this case, under the law of 1870, have been destroyed. You will ascertain whether or not a record of these proceedings were kept, and if so—whether the records are still in existence, or have been destroyed as alleged, and if destroyed, when, how and by whom, in order that a full, fair and impartial hearing and examination should be given to the Cherokee authorities, and to the Watts family, allowing ample time for the preparation of such evidence as the several parties may desire to submit.

You will also pursue independently such inquiry, as may be by you deemed best, and when your investigation is completed you will report all the facts elicited thereby to this office, returning the accompanying papers.

• Very respectfully,

R. V. BELT,  
Acting Commissioner.

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During the space of time from Attorney General Garland's decision to the time of the investigation, the Cherokee authorities were quite active looking up proofs to sustain their theories as to the time the Watts family and others entered the Cherokee Nation, and to show that they did not apply for citizenship as alleged under the Act of November, 1870, but moved into the Cherokee Nation in 1872 and filed their claims under the amended act of December 7, 1871. On the 9th day

of February, 1889, Chief Mayes and delegation, who were then in Washington City, addressed a letter to Joe A. Scales, then Chief Justice of the Supreme Court of the Cherokee Nation, stating, among other things, that Garland's decision would sustain the citizenship of the Watts family and others unless something was done at once, requesting a full report from that office of all the acts creating Commissioner's Court, with other facts bearing upon the Watts case. Mr. Scales, like George Washington, was never known to tell a lie, made a very elaborate report, giving the history of the case since 1871, closing his report with these words: "The error that has been fallen into in the Watts case is that the case came up under the Act of November 18, 1870, instead of the amended Act of 1871, as these records conclusively show." This report of Mr. Scales' was forwarded to the delegation at Washington on the 19th day of February, 1889, which should have settled the status of the Watts family, and showed plainly from the records that we did apply for citizenship under the Act of November 18, 1870, which Act conferred full jurisdiction upon the Chief Justice of the Supreme Court to hear and determine such cases; but the report was not what the Chief and delegation wanted, as it sustained our case, hence the report was laid aside, never to be resurrected. But fortunately for the Watts family, I secured a copy of the report from the Department of the Interior, and when the investigation of the case was being heard, I called upon the Chief Justice of the Supreme Court for a copy of the report, giving dates and so on. I had a copy of the report in my possession at that time. My object was to show to the Inspector that the Cherokee authorities would not

produce a record if it was against their interest. A detail of three executive clerks was ordered to examine the records of the Supreme Court and furnish a copy of the report which had been sent to the delegation on February 19, 1889, by order of Joel Mays, then Chief.

After three days' diligent search the clerks reported to Inspector Parker that they had failed to find a record of the report. I immediately introduced the copy of the report that I had in my possession as evidence in the case. On April 20, 1888, a Citizenship Commission, composed of Judge John T. Adair and others was sitting at Tahlequah, to hear and determine applications for citizenship. The Watts family was summoned to appear before them to show cause why they should not be termed intruders. The Watts family ignored the jurisdiction of the Court, claiming that they had no authority to try the case. A decision was rendered against the Watts family by default.

The Court published a report of their findings, saying among other things, that Chief Justice John S. Vann heard the Watts case under the Act of November 18, 1870. Notwithstanding the commission decided against the Watts family, they were fair enough in making their report to quote the law under which we were admitted. I also submitted a copy of this report as evidence in the case, which should have removed all doubts as to the law under which the Watts family applied for citizenship.

At the investigation no less than forty witnesses testified in the case, besides a great deal of documentary proof introduced on both sides. The Inspector was very diligent in his

efforts to arrive at the facts under the scope of his authority, giving to the Cherokee Nation and the Watts family all the time required to present the facts in the case. On March 11, 1890, Inspector Parker submitted his findings to the Honorable Commissioner of Indian Affairs, which should have forever put to rest all doubts about the facts in the case.

# INSPECTOR PARKER'S REPORT.

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AFTER A FULL AND CAREFUL INVESTIGATION SPECIAL UNITED STATES AGENT PARKER REPORTS THAT THE WATTS FAMILY WAS LEGALLY ADMITTED TO CHEROKEE CITIZENSHIP.

(Copy.)

TAHLEQUAH, C. N., I. T., }  
March 11, 1890. }

*Honorable Commissioner of Indian Affairs, Washington, D. C.*

SIR: In compliance with office letter, 2212-1888, 2040-1889, November 6, 1889, enclosing correspondence and papers in relation to claims of W. J. Watts and others to rights of Cherokee citizenship, with instructions to make a thorough investigation of the same, I have the honor to submit the following report :

Before presenting a summary of the case and the evidence produced, I will briefly state my findings, with some explanations, which you will find properly sustained in each instance by documentary evidence.

The Watts family came to the Cherokee Nation in October, 1871, and in November, 1871, filed their claim to citizenship

under the Act approved November 18, 1870, (the only law in existence under which they could file) which Act reads as follows :

“Be it enacted by the National Council, That all such Cherokees as may hereafter remove into the Cherokee Nation and permanently locate therein as citizens thereof, shall be deemed as Cherokee citizens, provided, said Cherokees shall enroll themselves before the Chief Justice of the Supreme Court within two months after their arrival in the Cherokee Nation and make satisfactory showing to him of their being Cherokee And the said Chief Justice is hereby required to report the number, names, ages and sex of the persons admitted by him to be entitled to Cherokee citizenship, and also the number, names, ages and sex of all the persons denied the rights of Cherokee citizenship, to annual council in each year.”

In the early part of November, 1871, the Watts' filed their claim, presented their evidence, and made satisfactory showing to the Chief Justice, who, strictly in conformity with the instructions of the Act, presented to the National Council “7th, evidence in the case of Malichi Watts, accompanied with the report of the Chief Justice in the matter (see Journal minutes, November 16, 1871;) which report (as will be seen later on) was : That said Watts had filed his application for citizenship with sufficient proof to entitle him to the same, and from that date the Watts' became citizens of the Cherokee Nation, and all acts of theirs subsequent to that were unnecessary, and showed they did not clearly understand the law by which they had been admitted, and all subsequent annoyance on the part of the Cherokee Nation, if done intelligently, is deserving

of the severest censure, if ignorantly, deserve reprehension for not understanding the acts of their own creation.

This act, of Judge Vann, in admitting the Watts', soon became very unpopular, owing to the large number who were admitted under this decision to share in the wealth, emoluments and division of the rich lands, the value of which was beginning to be appreciated.

And we find a sarcastic motion of W. P. Adair's, that the business submitted from the Chief Justice be referred to the Committee on Foreign Relations.

And again, in the Records of Proceedings, November 24, 1871, the following:

"The report of Chief Justice Vann, relating to citizenship granted to North Carolina Cherokees, ordered read. The names of William Going, J. Going and M. C. Watts appeared before the Chairman of Foreign Relations, evidence being taken, by which action on the part of the National Council was without any shadow of law and in utter contempt of the court. I will state, however, that these are the only instances where the Watts' name appears on any records in the Executive Office in connection with this Act, and the oft-repeated statements of the case having passed the senate and been rejected by the lower house, are false and without semblance of facts."

In 1874 Watts came to the capitol, having learned that the papers in their case had been abstracted from the files of the office, and acquainted Chief Justice Vann with this fact, who sat down and wrote:

"This certifies that during my sitting as Chief Justice of the Supreme Court of the Cherokee Nation to take evidence in

case of application for Cherokee citizenship at Fort Gibson, Cherokee Nation, some time in April, 1871, as a court of commission authorized by the National Council for the same. one 'William J. Watts', son of 'Maliehi Watts', filed his application then and there for Cherokee citizenship, with sufficient proof to entitle him to said rights according to the best of my judgment, which I forward to the senate with my recommendations."

It is here apparent that Judge Vann, (whose memory is revered for his integrity and fairness) in calling up from memory a transaction which occurred three years before, committed three errors: First, as to place, "Fort Gibson;" second, as to the month, "April;" third, as to sending it to the senate "with recommendations," and some one having changed the figure 1 to a 2 prior to the time when said document was introduced as testimony causes the copied report to present four errors, and this change of figures has probably been the cause of all the confusion in the history of the case since 1874, for had the statement of Judge Vann been presented to the world as it was written, "April, 1871", the existence of an error would immediately have been apparent, as the "Watts" family did not move into the nation until October, 1871. The probable cause of these errors committed by Judge Vann in reproducing his action or decision in the "Watts" case, made in November, 1871, was due to his having been for three years acting under the act as amended December 7, 1871, which provided: "That the Chief Justice should take evidence of those applying for citizenship, and transmit the same to the National Council the first week of each regular session, for its final action." But deprived said Chief Justice further power than to receive petitions and take evidence as aforesaid; and that he should hold two sessions in each year, one during the month of April, at Fort Gibson, and one at the town of

Tahlequah in September, and it is thus apparent, but, just to believe that Judge Vann (who has never been charged with committing a dishonest act) honestly committed the error in writing "Fort Gibson, April, 1871," instead of "Tahlequah, November, 1871," and "with recommendations," instead of "ordered the report filed."

It appears to have been the intention of the person who changed the figure 1 to 2, to have done so for the purpose of throwing confusion over the facts in the case, and to make it appear that the "Watts'" filed their claim under the amended Act of December 7, 1871, instead of the original Act of 1870, but, whatever the intention was, it had that result.

The lost papers were subsequently restored to the files in the Executive Office, with the exception of three, namely: The application and affidavit of W. J. Watts; the affidavit of Jacob Mabry, and the certificate or report of Chief Justice Vann, as sent to the National Council November 16, 1871.

It is but justice in passing over the history of this case to state that nothing has been discovered implicating the national authorities in the abstraction of the papers, except carelessness in the keeping of the files and in providing nothing more secure than rough broken dry goods boxes, in which to store their records, although their books of record pertaining to National Council are as clearly and systematically kept as can be found in any executive office.

The Watts' never ceased taking evidence to prove their Cherokee blood, and the national authorities continued to harass and torment them by councils, special commissions, writs, summons, etc., etc., setting forth always a confused

statement of the true condition of the case, a denial of real facts, with repeated efforts to annul or set aside the decisions of the Chief Justice, as will appear in this present investigation as presented by the Council on the part of the nation—better defined by paragraph No. 11, page 2, “Chamber’s” Court decision, 1878: “From this summary of the action had in this case through its various stages, little importance can be attached to the favorable action of any of the tribunals before whom their case was investigated,” for the same court says (paragraph 19, page 1): “It may not be improper in passing to state that the Supreme Court, acting as a commission, to take a testimony and report on applications of this kind of cases to National Council, did report favorably in this case,” etc., etc.

The case remained in this condition until January 7, 1889, when a communication from the Hon. Secretary of the Interior was presented to the Hon. Attorney General Garland, submitting Act of 1870, and propounding certain questions, who upon investigation rendered a decision in accordance with the actual facts in the case, and acknowledging the admission of “Watts” to rights of Cherokee citizenship; but, upon receipt of a communication from the Hon. Chief of the Cherokee Nation, of February 25, 1889, to the Honorable Secretary of the Interior, setting forth again a confused and conflicting statement of the case, further action was held until investigation could be made, the detailed report of which I now have the honor to lay before you.

In submitting the findings in this case to you, I may present more references than you deem necessary, but I have endeavored to use the utmost care that nothing bearing on the

case he omitted. I notified Chief Mayes and W. J. Watts, in the month of November of my instructions from the Department to investigate the Watts' claim to Cherokee citizenship (see document No. 1 and document No. 2). I reported at Tablequah February 11th (see document No. 3) and commenced investigation February 20th (see document No. 4); found that Watts settled in the nation in 1871 (not disputed—see document No. 5 and document 6 "A" and Watts' statement) and filed their claim for citizenship in the month of November, 1871. (see document No. 5 "B" and 7 "A", also 8, 9 and 10, from copies of original papers sent to the Department March 10, 1890.) Under the Act of November 18, 1870, (see document No. 11, and the affidavits above referred to) as first proof offered, the only act they could file under, the act prior to this having been a special one (see document No. 12, Act for the year 1870); Second—The minutes of Senate Journal, November, 1871, (see document No. 13) Third—Report of Adair's decision, April 20, 1888, (see document No. 14 "A"). "Whereupon Chief Justice Vann reported that he (Vann) found evidence sufficient to entitle them to citizenship (see document "O" and "M", the original sent to the Department March 10, 1890; also statement of Chief Justice Vann and Clerk W. H. Turner; see document No. 14 "D" Adair's commission of 1888). And, again, in report of Chamber's Court, document No. 15 "A" and W. J. Watts' and William Wilson's testimony. The minutes of the journals (senate and house) show that these were the only instances where the Watts' names appear on the records (the name of William Watts, once referred to in the record, is of another family) and I can not account for the oft-repeated statement that their case "passed the senate and was

rejected by the house," for there is nothing on the records to show that such was the fact. And further there was no evidence produced or testimony introduced to confirm these statements, and I never saw any one who claimed to have been present at the time this reported action took place in the senate, and of course it did not; and, furthermore, there was no law that provided for any such action. I can not account for the papers being lost only in this manner: It seems that the room where they were stored was occupied by the guards, jurymen and prisoners, attending court, and the boxes in which they were stored being of light material were consequently broken by their being used for seats, and some of them who knew the Watts', and probably a friend of theirs, saw the bundle of papers and photograph attached, examined and ascertained that they related to the Watts' case, took them home for safe keeping, later on notifying Senator William Wilson of the same, who in turn informed Watts of the loss of the papers, stating where they could be found. I will state that some of Watts' friends think that they were abstracted, for the purpose of a reward for their return, but the national authorities are not implicated in the loss, only so far as regards their carelessness in the keeping of the same. The purpose for which they were taken is merely a conjecture, but the affidavit of W. J. Watts, Jacob Mabry, and the report or certificate of Chief Justice John S. Vann (for which such thorough search had been made during this investigation) have never been recovered. The fact of carelessness in keeping their papers is generally known and admitted. The statement that Watts filed in 1872 is treated as a burlesque only when brought up in court and the error of Chief Justice Vann is

leaned on and referred to—as proof—no witnesses ever being introduced to show that Watts went to Fort Gibson and filed his claim in April, 1872; no one claimed it in the court room or on the street, neither friend or foe has been found to make the charge, only when referring to the hasty statement of Chief Justice Vann. At first thought it seems strange that a man with the ability and strict principle of honor, fine sense of justice and recognized judicial ability of Chief Justice Vann should commit such an error as he did in reproducing the facts in regard to having recognized the Watts' rights to Cherokee citizenship in the short space of three years after such verdict was rendered, but when we take into consideration that three years on the border in a country with an ever changing tide of population, whose government is unstable, and whose laws change every six or twelve months—it is not strange that Chief Justice Vann committed as many errors as he did, but was correct in calling up this most important fact, the real question, that he had from the evidence submitted found Watts entitled to Cherokee citizenship.

In closing my report of the investigation of this important case, aiming to keep within the scope of my instructions, and in submitting the evidence herein taken, I can not refrain from referring to two or three important points cited by the attorneys for the nation. (See document "Nation's Statement.") They refer to this case as coming up under two acts, first the Census Act of 1870, and the amended act of December 7, 1871. The amended act of December 7, 1871, was not created until twenty-one days after Chief Justice Vann had

made his report (see journal minutes of November 16, 1871,) and that they do not come under the class known as North Carolina Cherokees; I refer to the testimony of W. P. Boudinot (now attorney for the nation) referring to his argument while attorney for the Watts' in 1878, also see Art. 3, Treaty of Hopewell: "That said Indians for themselves and their respective tribes and towns do acknowledge ALL the Cherokees to be under the protection of the United States of America, and of no other sovereign whatever," etc.

I have no doubt of the correctness of Chief Justice Vann's decision, and that the Watts' are of true Cherokee blood and descent.

Respectfully,

GEO. W. PARKER,

Special U. S. Agent.

FORT SMITH, Ark.,     }  
March 15, 1890.     }

I confess my surprise at the appearance of the within document, No. 16, and especially at the affidavit of Mr. Henry Eiffert, signed and dated March 13, 1890, as I can not but think (from his good reputation for honor and integrity, and his expressed desire to assist me in securing a fair and impartial investigation) that in producing same he was actuated by the most honorable motives, but its appearance, however, in its present form, shows that he was not familiar with the different steps in the investigation. The paper was handed to me Thursday morning, March 13, while the stage was in

waiting for me to leave, and I did not observe its purport until the present time.

The investigation closed on Monday noon; I expressed a desire, however, if any evidence could be produced relative to the case on either side, to cheerfully receive it before leaving town. The facts are these:

The "Book" referred to was introduced by nation's attorneys, on March 10, 1890, (papers here enclosed, No. 17,) but I was not and am not satisfied that the record is complete for the following reasons (it was on my table several days during the investigation and I often perused its pages): It had no appearance of being a book of record—there was nothing on the outside or inside, on fly-leaf or cover, to show the title or contents of the book, although I suggested to the clerk, who was taking evidence for me, that the book be marked in some manner so that it could be designated, if we should want to refer to it, and I thought he marked it with an "X", but he might have written "Affidavits on Citizenship," which would explain Mr. Eiffert's affidavit, referring to it as marked in that manner.

As a further proof that it was not the original "Book of Records", and as the book had been referred to by the nation's attorneys, I caused the certificates, relating to the citizenship of Nuraia Mitchell, to be copied, which, of course, was not the original, being made November 15, 1871, and copied in 1873.

Again, the fact that the first report commences in the "Book" on or about the 20th or 30th page, without comment, is further evidence to me that they were not placed on the book the same time they were made out; and had Mr. Eiffert

came before me during the time of investigation (and I certainly gave ample time) I could have satisfied him that he was in error as regards the completeness of the records; and Mr. Rasmus, who was Executive Secretary, in or about 1875, and one of the most reliable and competent of officers, testifies in regard to the "Book" as having been PART of the records; and E. C. Boudinot, Jr., testifies that the last two entries, namely: No. 24 and No. 25, as being entirely in the handwriting of W. H. Turner, and as further proof that this "Book" is not complete as a book of records, there appears no record between the dates of April, 1871, and December 22, 1871, showing a lapse of 8 (eight) months, and the names of those who were admitted in the mean time—Nuraua Mitchell and others—do not appear (only as a copy), which they must do if these were the original records; besides, the remainder of this book (of about 150 pages) is left entirely blank.

I find this on the page following the minutes of No. 24. December 22, 1871:

"This is to certify Nuraua Mitchell (nee Nuraua Guinn), late from the 'Old Cherokee Nation', came with proof before me on yesterday, the 31st day of October, and proved to my satisfaction that she is of Cherokee blood, and entitled to all rights and privileges as such. Given from under my hand officially, the 1st day of November, A. D. 1871."

JNO. S. VANN,  
Chief Justice Supreme Court.

I certify the above a true copy from the original, presented by ——— Guinn on the 1st day of November, 1873, and now in his possession.

W. H. TURNER. Clerk Supreme Court.

After March the 11th, 1890, when Inspector Parker presented his report to the Interior Department sustaining the Watts case, the report rested in the Department owing to pending negotiations for the Cherokee outlet, better known as the Cherokee strip

In the mean time the Watts family and others who claimed the benefit of Garland's decision, as sustaining their citizenship in the Cherokee Nation by virtue of citizenship conferred upon them by the Supreme Court of the Cherokee Nation under the Act of November 18, 1870, were accumulating wealth, enlarging their business and improving their farms, many of them engaging in merchandising and other vocations, importing and introducing improved stock, erecting cotton gins and steam mills, and spending thousands of dollars, relying upon their citizenship to be genuine.

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### THE STRIP AGREEMENT.

In the strip agreement the commissioners on the part of the United States Government made concessions which were detrimental to every person in this nation whom the Cherokee authorities may object to by sanctioning their removal at the suggestion of the Principal Chief.

There was a provision, however, engrafted in said agreement that the carrying out of the agreement should be done in keeping with the Constitution of the United States and "the laws of Congress which have been or may be passed governing trade and intercourse with the Indian tribes."

The Cherokees seem to have captured the commissioners

who acted on the part of the United States, in making the agreement for the purchase of the "Strip".

Certainly those gentlemen made an unconditional surrender and consented to an agreement that would have placed it in the power of the Chief of the Cherokee Nation, to have caused the removal of any person he should at any time choose, and as many as he should choose, (Art. 2, Strip Agreement.) And great was the rejoicing among the "Close Corporation" portion of the Cherokees.

Secretary Noble, in transmitting the agreement to the President, said: "There is no reason that intruders in the Cherokee Nation should not be removed upon a fair ascertainment of the individuals." You will perceive that the Assistant Attorney General expresses the opinion (in which we decidedly concur) that even under the very particular enumeration in the agreement, of classes to be removed, the executive, legislative, and judicial departments of this Government, will retain the right to redress any wrong that might be inflicted by the Cherokee courts or the demand of the Principal Chief. But I recommend, as he suggests, that if there is any doubt by Congress on this question this reservation of the authority in this Government ought to be expressed in any act of ratification. Ex. Doc. 56, Sen. 52nd Congress, 1st Sess. p. 2.

In the same document, pp. 6 and 7, Commissioner Morgan calls attention to former treaty provisions and to article 5 of the treaty of 1835, which in guaranteeing the Cherokees the right to make and carry into effect, laws for themselves, contained a proviso that such laws should not be inconsistent with the Constitution of the United States, and

says: "I do not see that any new obligation in respect to the removal of intruders is entered into with the Cherokees in the agreement, and it seems to me, only a reiteration of obligations already in force." On pp. 22, 23 and 24 (same document) the then Assistant Attorney General, Shields, discusses the question at some length, saying, among other things, "This Department, whilst disclaiming the right to determine who shall become citizens of the Indian Nation, has insisted, under the advice of the Attorney General, (16 ops. 404) that it was incumbent upon the United States, first to ascertain whether the alleged intruders were such in fact and in law", and advises that there should be added to the bill drawn by the Commissioner for the ratification of the agreement, the words: "Subject to the Constitution and laws of the United States;" and Congress did make the addition, and forever set at rest any chance for contention on the part of the Cherokee Nation, that this Government had only to OBEY the DEMAND of the Principal Chief, and remove whomsoever HE might designate, without a hearing or investigation.

I maintain, and am borne out by the best authorities, that the act on the part of the Commissioners representing the United States was a violation of Constitutional rights and treaty stipulations. and no doubt Congress recognized the violation by inserting a Constitutional clause in the bill.

It is held by the Cherokee authorities that the Constitutional clause as was provided for in the bill has no significance, and that the United States Government is bound to remove any person designated by the Principal Chief as intruders.

Gentlemen: As members of the Senate and Congress of the United States, representing the greatest government on earth, of which we, the Cherokee Indians, are a part, in the name of the 9000 so called intruders in the Cherokee Nation, whose removal the Cherokee authorities are demanding after January 1, 1896, we call upon you to place a proper construction on the Constitutional Clause, as was inserted in the bill, which was ratified by Congress March 3, 1893, which we feel sure will sustain every person of Cherokee blood.

In this agreement the Cherokee Government was to pay the actual intruder for all improvements made or acquired prior to August 11, 1886. The bill also provided for a commission to be appointed by the President of the United States, two of whom were to be United States citizens and one to be a Cherokee citizen. In compliance with this Act, Peter H. Parnutt, of Indiana, Joshua Hutchins, of Georgia, and Clem V. Rogers, of the Cherokee Nation, were appointed as such commission. The appraisers reported to the Cherokee authorities, who furnished them with a list of intruders whose property was to be appraised. They were instructed not to appraise any property made or acquired since August 11, 1886, by that class of people. The Principal Chief designated the intruders, and in this way names of hundreds who had been legally admitted to citizenship by the Supreme Court of the Cherokee Nation were placed on the intruders list and their property made or acquired prior to August 11, 1886, was appraised at about one-fourth the actual cost of improvements.

In 1892, while negotiations were being made for the Cherokee Strip, the Cherokee delegation then in Washington, consisting of E. C. Boudinot and others, made a statement before the Senate Committee of Indian Affairs that the approximate value of the improvements made and occupied by that class of intruders were worth at least two hundred and fifty thousand dollars, which would have been a fair valuation, but the appraisers only awarded sixty-eight thousand dollars.

No property made or acquired since August 11, 1886, was appraised. It is now estimated that that class of improvements is worth two hundred thousand dollars. The Cherokee authorities claim that they will take charge of all that class of improvements after January 1, 1896, without compensation. To do this would be inhuman, unjust and unconstitutional, and would end in litigation in the Federal Court, and perhaps bloodshed. The Constitution of the United States declares that "no person shall be deprived of liberty or property without due process of law".

I cannot believe it is the policy of the United States Government to remove 9,000 people beyond the limits of the Cherokee Nation, the most of whom are of Cherokee blood—people who were pioneers and settled in the Cherokee Nation twenty-five or thirty years ago, who have done much towards opening up the resources of this country; who have built towns, erected churches and institutions of learning; whose children have been born, bred and raised here in homes made by honest toil, and know no other country but where they are living. To remove these people from their homes—where

they have built houses of worship, erected family altars, raised monuments to loved ones dead and buried in this country, would be cruel, unjust and without precedent.

The most sacred spot on earth to the living is where family relatives and loved ones are laid at rest. The Watts family alone since 1870 has buried in this country in the several cemeteries forty-seven of their family connections—brothers, sisters and other blood relatives.

Gentlemen : Permit me to call your attention to some sworn statements made by honorable people whom we claim are citizens of the Cherokee Nation, who are oppressed and persecuted by their own people, whose sworn statement is supported by evidence taken from records of the Cherokee courts, which will convince you that the Cherokee authorities are incompetent to pass upon the question of citizenship, and that the prejudice runs so high that no person who claims citizenship can receive a just hearing or decision in their courts, and that the lower courts often set aside decisions of their higher courts, as will be shown in the cases below :

1. The case of W. H. Watkins.
2. The case of Cynthia Braught and heirs.
3. The case of John O. Cobb and heirs.
4. The case of Rachael Edwards.
5. The case of Mrs. E. M. Black and heirs.
6. The case of J. D. Kelley and heirs.
7. The case of Mrs. Alice Rooney

CASE OF W. H. WATKINS.

AFTON, Indian Territory,  
Delaware District, Cherokee Nation, }  
November 11, 1895. }

*To the Honorable Dawes Commission, Fort Smith, Ark.*

GENTLEMEN: Having learned that you Honorable Commissioners would hear and receive complaints from the people termed and called intruders by the Cherokee authorities, permit me to say:

I am a Cherokee, deriving my Indian blood from my parents, who were both Cherokees. My mother descended from the McNairs, my father from the Tutts. They were reared and married in the State of Georgia and moved to the White River country some time in the 50's. Afterwards they moved to the Cherokee Nation, in 1859, settling near the old Ross salt works, Grand Saline P. O. Here I was born in 1860.

During the late rebellion this country was the battle ground of both the Northern and Southern armies. In 1862 Col. Weir, commander of the Federal troops, invaded and took possession of the country. My father, like many others, went before the commander and took the oath of allegiance, throwing himself and family upon the protection of the United States Government.

Immediately afterwards Col. Weir was ordered out of the country and those who took the oath of allegiance were left at the mercies of marauding bands of thieves and cut throats, who sought revenge by confiscating property and persecuting the helpless without mercy. My father succeeded in escaping

with his family to Fort Scott, Kansas, and moved from there to Douglass county, Kansas. My parents never returned to claim their property or rights. When I became 21 years of age I returned for this purpose, hoping to identify myself with the Cherokee people, where by virtue of birth I felt that I possessed a right to participate in the common property of the Cherokee people, I being one.

Finding it necessary to be legally represented I employed an attorney, Solone O. Thatcher, who learned through the Cherokee National Council that by my father taking the oath of allegiance my rights as a Cherokee were forfeited. I never gave up, however, and afterwards tried various honorable methods to regain my rights. All overtures failed and I was termed an intruder, although I own my land in my country by right of inheritance.

The following are a few of the people who knew my parents. They are prominent Cherokees and our neighbors: William Penn Adair, Dr Felix Thompson Mayes, John Alberty, William Alberty, Levi James, Jack Palmer, John Tutt, Joseph Vann, Cull Vann, Joseph Martin and others.

In view of the above facts I appeal to you gentlemen to recommend to Congress some legislation that will reach my case as well as other true and just cases.

W. H. WATKINS.

Subscribed and sworn to before me, this, the 11th day of November, 1895.

JOHN J. HUBBARD

Notary Public.

My commission expires in May, 1898.

CASE OF CYNTHIA BROUGHT.

AFTON, Indian Territory, }  
November 7, 1895. }

*To the Honorable Dawes Commission, Fort Smith, Ark.*

GENTLEMEN: Having learned that your Honorable Commission would hear complaints of persons termed by the Cherokee authorities as intruders, permit me to say :

That I am a Cherokee woman, derived my Cherokee blood from Juda Watts, my mother, who married one Rainey Chastain, my father, who was a United States citizen and a white man. They were married in the state of Georgia, on the old Cherokee reservation.

About the year of 1870 my parents moved to this nation and settled in Delaware district, where they both have since lived and died, leaving four sons and two daughters, where we have all resided to this day. As evidence of our recognition as Cherokee citizens, I submit below a true copy of the marriage license of myself and husband, C. G. Brought, then a citizen of the United States and of the state of Kansas.

Since our marriage there have been four children born to us, and we have by close industry accumulated considerable wealth and have a comfortable home well stocked. We have now between seven and eight hundred acres of land enclosed and in a fair state of production, with dwellings, barns, orchards, etc.

COPY OF OUR MARRIAGE LICENSE

Cherokee Nation, }  
Delaware District. }

To any regular ordained minister of the gospel, or any of the judges or clerks of this nation, to execute and return, Greeting :

You are hereby commanded, in the name of the Cherokee Nation, to solemnize the rites of matrimony between Mr C. G. Brought, a citizen of the United States, and Miss C. A. Chastain, a citizen of the Cherokee Nation (by blood), the said C. G. Brought having complied with the law regulating intermarriage of white men and foreigners.

Given under my hand and official seal, this, the 11th day of October, 1882.

(Signed)

T. J. McGEE,

[SEAL]

Clerk Delaware District, Cherokee Nation.

Copy of minister's certificate on back of license :

This is to certify that Cloyd G. Brought, of Labette county, Kansas, and Cynthia A. Chastain, of Cherokee Nation, the within named parties, were by me joined together in holy matrimony on this, the 19th day of October, 1882.

(Signed.)

REV. B. F. JOHNSON.

Signed as witnesses : J. G. CHASTAIN, J. B. MONTGALL.

Recorded on page 91.

It is and has been the custom of the Cherokee people that any person, or persons, can and have been placed on the intruder list at the will and pleasure of the census takers, and our names were placed on the intruder list and was so reported

to the "Board of Appraisers," who were appointed by "an act of Congress to appraise the improvements of the so called intruders." The said "Board" appraised all property made or acquired prior to August the 11th, 1886, such persons being pointed out by the Chief of the Cherokee Nation.

Our valuable improvements, the fruits of industry and hard labor for thirteen years, was appraised at the small sum of \$1342.00, which amount the Treasurer of the Cherokee Nation, under provision of an act of the Cherokee Council, made a tender of said amount, which I refused to accept, for the following reasons, to-wit :

Because I am a citizen of the Cherokee Nation, by blood, and was so recognized at the time of my marriage to the said C. G. Brought, and that our improvements are worth no less than about six thousand dollars, which cost us at least that amount, and which we never have offered for sale, and that our names were illegally and unjustly placed on the intruder list without our knowledge, and it is now suggested by the Cherokee Government to remove us from our home soon after the 1st day of January, 1896, which we claim and know would be cruel and unjust.

Gentlemen, please permit me to say, in the name of justice, if such a removal is anticipated by the United States Government, if under the scope of your authority, please recommend to the Honorable Secretary of the Interior and to the Congress of the United States, a suspension of the removal

in view of pending legislation by Congress, your petitioner ever prays.

CYNTHIA A. BROUGHT.

Subscribed and sworn to before me this, the 7th day of November, 1895.

JNO. J. HUBBARD,  
Notary Public.

[SEAL]

My commission expires May, 1898.

United States Court for Indian Territory, }  
In the Northern Judicial Division. }

I, John J. Hubbard, a Notary Public in and for the northern division of the United States Court for Indian Territory, do hereby certify that the within and above is a true and correct copy of the original statement made, signed and sworn to in my presence and addressed to the Honorable Dawes Commission, and that the copy of the marriage certificate is a true copy of the original, now in the possession of the said Mrs. Cynthia A. Brought.

Given from under my hand and seal of office day and date above written.

JNO. J. HUBBARD,  
Notary Public.

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CASE OF JOHN O. COBB

MUSKOGEE, Indian Territory, }  
November 21, 1895. }

*To the Honorable Members of Congress of the United States,  
Washington, D. C.*

GENTLEMEN: I, the undersigned, citizen of the Cherokee

Nation, Indian Territory, would respectfully show and state unto your honorable body :

I was admitted to citizenship in the Cherokee Nation, Indian Territory, in the year 1871, pursuant to Cherokee law, and that afterwards, to-wit, in the year 1876. My improvements, which are situated near Webbers Falls, in said nation, and to which I had an indefeasible and absolute right under the Cherokee Constitution, (article 1, section 2. of said Constitution) were seized and sold by some sort of illegal process and I was dispossessed of the same and ejected therefrom by force. I would further state that I was declared an intruder by act of Cherokee council, and without a hearing, after my citizenship had been established upon my lawful marriage to an Indian by blood.

My wife was Eudora A. Moffit, of Indian descent, and all evidence upon which her right to Indian citizenship is based is now on file in the Interior office, in case of the Cherokee Nation vs. John O. Cobb, and to which you are specially referred.

After being dispossessed of my home at Webbers Falls by a drunken mob consisting of a sheriff and eight or ten of his posse, the doors were forced open and the plunder thrown in the yard. A guard was placed over the house to prevent me from returning. My home at that time, which was worth \$3,500, sold for the pitiful sum of \$600 in Cherokee scrip, which was worth at that time 20 or 25 cents on the dollar. I immediately applied to the Interior Department for relief, but it was delayed until February, 1889, when Indian Agent R. L. Owen was instructed to put me in possession of my property, which he positively refused to do. After Leo

Bennett superceeded Mr. Owen as Indian agent I couldn't secure another order from the Indian office for the restoration of my property and my home at Webbers Falls. At this time I was living at Claremore, I. T.

My children having been driven from a school house, I built myself and organized a subscription school, which was afterwards converted into a public school of the Cherokee Nation, without compensation, the three trustees of the school deciding that my children were not entitled to any benefits of the public school.

I then improved me a place on the public domain near Muskogee, Canadian District, I. T. I put 250 acres in a good state of cultivation, with three dwellings, cisterns, barns and other improvements. There was a sixty acre orchard containing 2000 grapes, 200 pears, 200 cherries and about 400 apple and peach trees, which are now in good bearing order. I commenced the improvements in the year 1882 and I have occupied the property until the present time.

I have appealed to the Interior Department on several occasions for the restoration of my farm at Webbers Falls since it was taken from me. Since that time the town of Webbers Falls has built up and about forty acres of my farm are in town lots. The farm is worth today no less than 10,000, for which I never received one cent.

In 1881 my wife, Eudora Cobb, died, leaving six small children, two boys and four girls, two of whom died soon after their mother.

I am a United States citizen, a white man, and didn't

claim any rights in the Cherokee Nation only by virtue of adoption by intermarriage with a Cherokee woman. Prior to my wife's death, and after she was admitted to citizenship by the Cherokee Nation, she and her children drew annuity money as other Cherokees, and at that time the citizenship of myself and family was not disputed, I having complied with the laws of the Cherokee Nation in regard to marriage.

I have now four living children, by my wife Endora, whose names and ages are respectively: Henry 25; Lillie 23; Endora —; Belle 19; and one granddaughter 2 years old, all of whom are Cherokees, deriving their Cherokee blood from my wife, Endora Cobb.

A recent opinion rendered by Assistant Attorney General John I. Hall, says: "The ratifying by Congress of the Strip agreement takes from the Interior Department the jurisdiction of the question of citizenship." This being the case it would seem that the jurisdiction heretofore held by the Interior Department over the question of citizenship was transferred to Congress by virtue of the constitutional clause as was inserted in the bill, which, properly construed, is that no one shall be deprived of life, liberty or property without due process of law. The Cherokee authorities seem to have lost sight of the force of the amendment to the Strip agreement by saying that the Principal Chief has the right to point out whom he may wish as an intruder and that the Government of the United States is obligated under the terms of this agreement to remove all such persons from this nation. If the amendment has any significance, which I am sure it has, it takes from the Principal Chief the right to say who shall be removed from the Cherokee Nation.

The Board of Appraisers which was appointed by an Act of Congress to appraise the improvements of the intruders, made and acquired prior to August 11, 1886, reported to the Principal Chief of the Cherokee Nation, who, as claimed by the nation, pointed out the so called intruders and furnished them with the names and locations. In this way a large number of persons who are citizens of this nation were placed on the intruders list, my children and myself with the others. They proceeded to appraise my improvements made prior to August 11, 1886, and by an Act of the Cherokee Council providing for the same. The Cherokee treasurer proceeded to offer me a tender of money, which I refused to accept for the following reasons :

1. I am only an adopted citizen of the Cherokee Nation, claiming no rights only by virtue of intermarriage, according to the Cherokee laws, with citizens of their own nation.

2. My children being the heirs of Eudora Cobb, through whose rights the property appraised was acquired.

3. We have not offered our improvements for sale nor do we wish to dispose of the same

4. We never were legally disfranchised.

5. The names of myself and children were illegally placed on the intruders roll.

A resolution passed by the last Congress engrafted in the Appropriation bill (page 72) suspending the removal of actual intruders until after January 1, 1896, provides that the appraisers' report must be approved by the Secretary of the Interior and by him submitted to Congress, but for what

purpose does not seem clear. If for approval, it is very clear that Congress would have the right to disapprove.

Gentlemen, in conclusion I will say: If within the scope of your authority under the law please erase the names of myself and children from the intruders roll and restore us to our original citizenship, your petitioner will ever pray.

J. O. COBB.

# CASE OF MRS. RACHEL EDWARDS.

Cherokee Nation, }  
Sequoyah District. }

On this day personally appeared before me, W. J. Watts, a Notary Public in and for the northern division of the Indian Territory, Rachel Edwards, who on oath, states:

I am about 65 years old. My post office address is Muldrow Indian Territory. I am a Cherokee woman. I was born in the old nation, east, and was moved to this Cherokee Nation by the United States Government in 1836, as well as I can remember. I have lived in this nation from that time to this date.

My first husband was Moses Edwards, a prominent Cherokee citizen, from which marriage there was no issue, Edwards dying soon after the war. Some years later I was married to a United States citizen—a white man named Timpson. We couldn't get along peaceably together, hence I was divorced under the Cherokee law.

My rights have never been brought in question until the

census taker of my district reported me as being doubtful. Their plan of marking Cherokees doubtful was to place a red mark opposite the name. This was in 1893.

On September 5 I made application to a merchant at Muldrow for credit on the strength of my Strip money. The merchant, to satisfy himself of my being a legal Cherokee citizen, wrote to the Executive Department of the Cherokee Nation to ascertain the true facts and was furnished with the following certificate :

Executive Department, Cherokee Nation,  
TAHLEQUAH, Ind. Ter.,  
September 5, 1892. }

I hereby certify that the name of one Rachel Edwards, female, appears on the census rolls of 1880, Schedule 1, census of Sequoyah District, Cherokee Nation, as a native Cherokee by blood

[SEAL.]

R. T. HANKS,  
Ass't. Exec. Sec'y.

NORTHERN DIVISION, Ind. Ter.,  
November 12, 1895. }

I, W. J. Watts, Notary Public, within and for Muldrow, L. T., do certify that the above certificate is a true copy of the original, as is now in possession of Mrs. Rachel Edwards.

[SEAL.]

W. J. WATTS,  
Notary Public.

On the assurance of the strip money I secured credit of something over \$100. When the Treasurer of the Cherokee Nation was paying the Cherokee pro rata share of the Strip money I applied for my money. Their excuse was that I was marked "doubtful," and that I would have to appear before the Cherokee Council and be reinstated before I could get my Strip

money. I went before the council in 1894. After pleading with the members to place my name on the proper roll I was treated with contempt, and couldn't secure any action for or against my case. There are many others in the same condition today. I make this statement to show the injustice that is being done to citizens of the Cherokee Nation by people of their own blood.

Gentlemen of the Dawes Commission: If within the scope of your authority, make such recommendation to the Government of the United States as will correct this great wrong, which is being practiced by those in authority in the Cherokee Nation, your petitioner will ever pray.

Attest: T. F. ANDREWS.  
RACHEL EDWARDS.

Sworn to and subscribed before me, W. J. Watts, Notary Public within and for Muldrow, northern division Indian Territory, November 12, 1895.

W. J. WATTS,  
Notary Public.

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CASE OF MRS. E. M. BLACK.

MULDROW, I. T., }  
December 1, 1895. }

*To His Excellency, the President of the United States, and the Congress of the United States of America, Washington, D. C.*

Permit me to say that I am a Cherokee woman, deriving

my Cherokee blood from my grandmother, Cerena Sevier, a half breed Cherokee, who married Andrew Culwell, a white man.

My mother, Elizabeth Culwell, who was a daughter of said Andrew and Cerena Culwell, married John C. Jackson. I married William P. Black September 1, 1867, in Hunt county, Texas. Since our marriage there have been five children born to us.

We moved to the Cherokee Nation and filed my claim in compliance with the laws of the Cherokee Nation and myself and five children were readmitted to citizenship in the Cherokee Nation by the Adair court, which right we have enjoyed until we incurred the displeasure of some official.

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CERTIFICATE OF ADMISSION TO CHEROKEE CITIZENSHIP.

Office of Commission on Citizenship,    }  
   TAHLEQUAH, Cherokee Nation. }

To all whom it may concern—Greeting :

This is to certify that the following named, to-wit : Eliza M. Black, and her five children, Dora L., Forrest C, J. Elliott, Kennic D. and Della M., ages respectively, viz : 44, 17, 11, 9, 8, 7, did, pursuant to the provisions of an Act of the National Council of the Cherokee Nation, approved December 8, 1886, entitled : "An Act providing for the appointment of a commission to try and determine applications for Cherokee citizenship," make such application to and before said Commission on the 26th day of September, 1887 ; that

the proof submitted by the above named applicants in support of their said application has been heard and is hereby declared and certified to be sufficient and satisfactory to the said commission according to the requirements of section 7 of said Act of the National Council—and that by virtue of such finding of fact by the Commission, and in conformity with the fourteenth section of said Act, the above named parties (applicants for citizenship) are from this date of said finding and decision of the said Commission announced and recorded, readmitted by the National Council, as provided in said fourteenth section, to the rights and privileges of Cherokee citizenship, under section 2, article 1, of the Constitution of the Cherokee Nation; and this certificate of said decision of the Commission and of readmission by council is made and furnished to the said parties accordingly.

In witness whereof, I hereunto sign my name, as chairman of the Commission, on this, the 22nd day of September, 1888.

J. T. ADAIR,

Ch'r'm Com. Citizenship.

[SEAL]

Attest: CONNELL ROGERS,

Cl'k Com. Citizenship.

Approved and endorsed:

J. B. MAYES,

Principal Chief Cherokee Nation.

HENRY EFFORT,

Asst. Ex. Sec. Cherokee Nation.

SHIPPER'S PERMIT.

Cherokee Nation, Cooweescoowee District. }  
Office of Clerk. }

Whereas, E. M. Black has petitioned this office for a permit to ship Prairie Hay beyond the limits of the Cherokee Nation:

Now therefore, I, H. H. Trott, Clerk of Cooweescoowee District, Cherokee Nation, by virtue of authority in me vested by law, empower, authorize and permit E. M. Black, a citizen of the Cherokee Nation, to ship, transport or carry beyond the limits of the Cherokee Nation, prairie hay cut in Cooweescoowee District in the years 1891 and 1892 The said E. M. Black being subject to and required to comply with all the conditions of the Act of the National Council, approved December 2, 1889, entitled "An Act to protect the Public Domain, and for the purpose of Revenue."

In testimony whereof I hereunto set my hand and affix the seal of my office on the 27th day of June, one thousand eight hundred and ninety-one.

H. H. TROTT,

Clerk of Cooweescoowee District, Cherokee Nation.

By W. H. DREW, Deputy.

MONTHLY STATEMENT.

Of Prairie Hay shipped or sold by \_\_\_\_\_ of  
\_\_\_\_\_ I. T., during the month of \_\_\_\_\_ 189—

———tons and———lbs. subject to a tax of 20 cents per ton,  
amounting to———dollars and——— cents.

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Sworn to and subscribed before me on this, the ——day of  
—————189——

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——Clerk Cooweescoowee District, C. N.

To H. H. TROTT,

Clerk Cooweescoowee District, C. N.

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Received of E. M. Black \$6 to apply on permit to employ  
David Belmire to labor as a farmer within this district for the  
term of 12 months from date, January 1, 1892; expires Janu-  
ary 1, 1893.

F. METZNER,

Special Deputy Clerk, C. D. C. N.

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We have by hard labor and close economy accumulated  
valuable improvements.

We now have about 500 acres of land in cultivation and  
six dwelling houses, out houses, wells, lots, etc., on same, and  
four houses and lots here in Muldrow.

These valuable improvements, the fruits of industry and  
of many years' hard labor, the Cherokee authorities now  
propose to confiscate January 1, 1896, and not only this but  
they propose to dump us out as freight or vagabonds and  
intruders beyond the limits of the Cherokee Nation, homeless  
and pennyless, worse if possible than the Irish eviction.

In December, 1891, the sheriff seized and sold 175 tons of our hay on a report (so he said) that I was an intruder. I offered to show him my certificate of citizenship but he refused to look at it.

In May, 1892, Dr. Nairn, an adopted citizen, began suit in the United States court at Muskogee, I. T., to take our home from us, on the plea that we were intruders. The court sustained me by giving me our home and also the hay. Not being satisfied they then tried to have Mr. Black, my husband, indicted for perjury before the grand jury at Muskogee but the grand jury failed to find a bill.

I think this was done to cheat, wrong and rob us and deprive us of our rights in the Cherokee Nation.

It is and has been the custom of the Cherokee authorities to place the name of any person who incurred their displeasure on the list of intruders. The Cherokee census takers enrolled the names of myself and five children and grandchild then afterwards re-linked them, as it is called, by writing across the name with red ink the word "intruder" or "doubtful".

They refused to pay us our part of the Strip money and our names were reported to the board of appraisers that was appointed by an act of Congress of the United States to appraise the improvements of the so called intruders. Said board did not appraise our improvements, they having been made or acquired since August 11, 1886.

I am a citizen of the Cherokee Nation by blood and was readmitted to Cherokee citizenship by a Cherokee court created by an act of the Cherokee National Council and received a certificate of citizenship properly signed by the officials of

the court and also by the Principal Chief of the Cherokee Nation who affixed the seal of the nation upon it. I was recognized by the Cherokee authorities as a citizen

HAY LAW.

An Act to protect the public domain and for the purpose of revenue.

Be it enacted by the National Council. That from and after the passage of this Act it shall be unlawful for any person, a citizen of this nation, to sell or ship prairie hay beyond the geographical limits of the Cherokee Nation or to any person not a citizen of this nation except as hereinafter provided: Provided, That nothing in this Act shall prevent the selling in small quantities of not more than one wagon load to persons under a permit or persons traveling through the country.

Be it further enacted. That any citizen desiring to sell or ship prairie hay shall, before doing so, procure from the district clerk a permit for that purpose wherein he proposes to sell or ship, and make sworn monthly reports to the district clerk, of all the prairie hay so sold or shipped, and pay to the district clerk 20 cents per ton for all hay so sold or shipped, and the district clerk is hereby authorized and directed to issue permits as hereinbefore provided and to receive and turn over to the treasurer all the funds so received for the benefit of the school fund.

Be it further enacted. That any person violating the

provisions of this Act shall be deemed guilty of a misdemeanor and fined in any sum not less than five hundred nor more than one thousand dollars, and in default of payment be imprisoned in the national prison not less than six nor more than twelve months, or be both fined and imprisoned, at the discretion of the court; provided, no one shall be allowed to cut hay within one quarter of a mile of the legal improvements of any other citizen without his or her consent.

Be it further enacted, That all laws and parts of laws heretofore enacted and conflicting with this Act are hereby repealed.

Passed the House, November 19, 1889.

WM. P. THOMPSON, Clerk of Council.

WM. PARKER, Speaker of Council.

Concurred in by the following amendments, viz: That nothing herein shall be so construed as to prevent the sale and shipment of hay already cut. Provided, That the citizen selling or shipping be subjected to the same conditions, privileges and restrictions hereinbefore provided, and after (the) words "district clerk" erase the word "ten" and insert the word "twenty," so as to read "twenty cents per ton" instead of "ten cents."

November 29, 1889.

L. B. BELL,

A. H. NORWOOD, Clerk of Senate.

Pres. of Senate.

Amendment concurred in by the Council, Nov. 29, 1889.

WM. P. THORNTON, Clerk of Council.

WM. H. PARKER,

Speaker of Council.

Approved December 2, 1889

J. B. MAYS,

Chief

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Please permit me to call your attention to the constitutional clause in the Strip agreement, which cites this agreement was made subject to the Constitution of the United States, as follows: "That no person shall be deprived of life, liberty or property without due process of law" This agreement is also made subject to the acts of Congress that have taken or may take place.

Also see opinion of Attorney General Garland, January 23, 1889, as follows: "Citizenship cannot be legislated away, directly or indirectly, no more than the rights of property."

This matter now being subject to Congressional action, permit me in the name of justice to plead with you to pass a law erasing our names from the roll of intruders and restore us to our constitutional and treaty rights as Cherokees.

I now appeal to your Excellency and the Honorable Congress of the United States to look into this our case and give us redress and security forever in the future in our indefeasible treaty guarantees under the laws and Constitution of the United States of America.

Your obedient servant,

ELIZA M. BLACK.

On the 22nd day of November, 1895, personally appeared before me, W. J. Watts, Notary Public, within and for Muldrow, northern division Indian Territory, Mrs. Eliza M. Black, who on oath states that the above is correct as she verily believes.

W. J. WATTS,

Notary Public.

STATEMENT OF J. D. KELLEY.

Delaware District, Cherokee Nation, I. T.,  
AFTON, November 11, 1895. }

*To the Honorable Dawes Commission, Fort Smith, Ark.*

GENTLEMEN: Having learned that your Honorable Commission is now hearing complaints and receiving statements from those persons designated as intruders in the Cherokee Nation, I most respectfully submit the following, that you may learn more fully the complications that exist in the Cherokee Nation in regard to citizenship matters :

My name is J. D. Kelley, age 55 years, postoffice address, Afton, Cherokee Nation, Indian Territory. I was married in or about the year 1854, to Miss Muta A. Davis, a Cherokee by blood decent, and moved into the Cherokee Nation in the year 1871, and we have born to us the following named children, now living in the Cherokee Nation : Theodore Kelley, John D. Kelley, Mary F. Kelley, William Kelley, Robert Kelley, Joseph Kelley, Franklin Kelley and Charles Kelley.

On or about the 10th day of November, 1871, soon after my arrival in the Cherokee Nation, I went to Tahlequah, and not knowing any better went before the National Council of the Cherokee Nation for the purpose of enrolling my wife and children. I was informed by a representative of that body that the council had no jurisdiction, and that I would have to appear before the Supreme Court then in session, which body had full authority over the citizenship question. I then appeared before the Supreme Court and the court took up our case and determined it that day. I received a certificate, of

which the following is a certified copy, now in my possession  
The original is on file :

I certify that Muta A. Kelley (formerly Davis) has proven to the satisfaction of Chief Justice John S. Vann, that she is of Cherokee blood and thereby entitled to all rights and privileges of other Cherokees, and now on record in office of Supreme Court.

Signed, W. H. TURNER,

Clerk Supreme Court for Judge John S. Vann,

Supreme Court, November 10, 1871:

I hereby certify that the above and foregoing is a true and correct copy of the original on file in the office of the Commission on Citizenship, and filed as evidence in the case of Muta A. and J. D. Kelley vs. Cherokee Nation.

Tahlequah, June 30, 1879.

JOHN F. LYONS,

Attorney for Commission on Citizenship.

On the same day, November 10, 1871, I was advised and requested to take out license and remarry my wife according to tribal laws and customs, which I did, and submit the following certified copy.

(Original on file.)

This certifies one J. D. Kelley, a white man and a citizen of the United States, who married a Miss Muta A. Davis, a Cherokee out of the limits of the Cherokee Nation, and since removed into the Cherokee Nation, and wishing to become a citizen of said nation presented his recommendation for marriage license, as required by law, on or about the 10th day of

November, 1871, and received the same of me as I was then acting as clerk of the district court for Tablequah District. The same licenses was afterwards returned to said office with certificate of marriage, solemnized by the proper authorized officer, thereby obtaining Cherokee citizenship under the law regulating intermarriage with white man, etc. A record of the same is now on file in the office of the district court for Tablequah District to the best of my recollection.

August 4, 1874.

Signed, W. H. TURNER

I hereby certify that the above and foregoing is a true and correct copy of the original in the office of the Commission on Citizenship, and filed as evidence in the case of Muta A. and J. D. Kelley vs. Cherokee Nation.

(Signed)

JOHN F. LYONS,

Attorney for Committee on Citizenship.

Tahlequah, June 30, 1879,

I also submit the following affidavits (certified copies) the originals having been filed.

Cherokee Nation        }  
Tablequah District. }

Personally came before me, Allen Ross, clerk of said district, Redbird Sixkiller, who being qualified states that in the year 1871 he was one of the Associate Justices of the Supreme Court and that John S Vann was acting as Chief Justice of the Supreme Court at the time Also T. B. Wolfe was acting Associate Justice of the Supreme Court. and sometime in November, 1871, there was one J. D. Kelley and his wife, Muta A. Kelley, made application for citizenship,

and from the evidence they produced the court granted Muta A. Kelley citizenship, she having proved to the satisfaction of the court that she was a daughter of James Davis, who was a brother of Judge Thomas Davis, therefore the said Muta A. Kelley is a Cherokee by blood. The court admitted J. D. Kelley and his wife, Muta A. Kelley, to all the rights and privileges of citizenship in this nation, and the decision of the court in this case was put upon record or docket, and gave J. D. Kelley a certificate showing what the decision of the court had been. The court also remarked at the time that it was the best case that had been produced.

(Signed) REDBIRD [HIS MARK] SIXKILLER.

Sworn to and subscribed before me this 9th day of November, 1885.

ALLEN ROSS,  
Clerk.

[SEAL]

Cherokee Nation, }  
Tahlequah District. }

Personally appeared before me, Allen Ross, clerk of said district, Eli Spears, who being qualified states that he was sheriff at the time Redbird Sixkiller was one of the Associate Justices of the Supreme Court and recollects that the case of Muta A. Kelley, daughter of the brother of Thomas Davis, was tried before the Supreme Court and the case was decided in her favor, and thinks it was about the year of 1871 the case was recorded by the clerk of the court at the time.

(Signed) ELI SPEARS.

Subscribed and sworn to before me, this 9th day of November, 1885.

ALLEN ROSS,

Clerk.

I certify that the above is a true copy of the original retained in this office.

D. S. WILLIAMS,

Asst. Clerk C. on C

This 9th day of June, 1889.

When the Keys Commission Court was established, to try ten certain named cases and any others that might be presented, one L. B. Bell, being then clerk of the senate, rose to his feet and said that he would report one J. D. Kelley, "God damn him", and see how he would pan out. At this time and before this Mr. Bell and myself were not on friendly terms.

I was notified soon after this to appear before the Keys Commission Court. I appeared before that court and nothing was proven against me or any of my family, nor has there been since, though we have constantly been refused the benefits gained through the rights of myself and wife, Muta A. Kelley.

Up to the time that Mr. Bell reported me in the Cherokee Senate, we enjoyed all the rights and privileges of other Cherokees, voting, getting out permits for hands, and sending our children to the Cherokee schools.

About April 30, 1874, I was notified by the authorities at Tahlequah not to sell or try to dispose of any of my improvements in the Cherokee Nation, and afterwards was not allowed to vote at Cherokee elections. I applied to John B. Jones,

then acting United States Indian Agent, in regard to my situation and condition in the Cherokee Nation. I immediately received the following order, or notice, which I submit in full below :

TABLEQUAH, Cherokee Nation, }  
August 4, 1874. }

To whom it may concern :

Be it known that it has been shown to my satisfaction that a certain order enjoining one J. D. Kelley not to sell his improvements, etc., etc., was obtained by misrepresentation, said paper being dated April 30, 1874. The said paper is therefore null and void, and moreover is hereby revoked.

It is believed by the agent that in case J. D. Kelley's citizenship in the Cherokee Nation should prove to be invalid, that provision can be found in the Cherokee law for all necessary redress.

(Signed)

JOHN B. JONES,

Acting United States Indian Agent.

After this order was received by me I was allowed to take out permits for hands to work on my farm, etc., these papers being issued by local officers of Delaware District, who, knowing my situation, never doubted my citizenship, all my troubles coming from the so called constituted authorities at Tablequah, since Bell reported me (through malice) to the Keys Commission Court.

On or about the year 1880 my wife petitioned the Cherokee court as follows :

To the Honorable, the National Council :

Your petitioner, Muta A. Kelley, a Cherokee by blood,

would respectfully state that in the year 1871 she was admitted by the Supreme Court of the Cherokee Nation to all the rights and privileges of Cherokee citizenship as a Cherokee by blood, and that since that time her rights have been disputed by the census takers in this that for some cause, to your petitioner unknown, her name and the names of her children have not been placed on the census roll of 1880 as citizens of the Cherokee Nation

Your petitioner prays that the census roll of Delaware District, wherein your petitioner is a resident and has been for fifteen years past, be corrected and her name and the names of her children, Theodore, aged 29 years; John D., 27 years; Mary F., 25; William, 19; Robert, 23; Joseph, 16; Franklin, 13, and Charles, 11 years old, be placed on said rolls.

The proof of the allegations herein made, I respectfully refer your honorable body to the affidavits of Hon. Redbird Sixkiller, one of the judges of the Supreme Court that tried and heard my case, and Henry Barnes, who acted as sheriff of the court, and Hon. Eli Spear, who was the sheriff of Tahlequah District, and who appointed and placed on duty regard Henry Barnes.

And duty bound your petitioner will ever pray.

MUTA A. KELLEY.

November 11, 1885.

We received no relief from the council, our names still being reported as "intruders". But prior to this date, 1880, when our names were dropped from the census rolls, and after

I had been reported by L. B. Bell, I was still recognized as a citizen by our district officers and my neighbors, they well knowing my situation. As proof I respectfully submit the following copies of receipts for permits, the originals being now in my possession, to-wit:

Cherokee Nation, Delaware District, }  
January 1, 1876. }

John D. Kelley, having reported that he has employed Thomas Ferry, a farm laborer and citizen of the United States, permission is granted said Thomas Ferry to remain in Delaware District, Cherokee Nation, two months from the date hereof

(Signed)

J. T. CUNNINGHAM,

[SEAL]

Clerk Delaware District C. N.

Cherokee Nation, }  
Delaware District. }

John D. Kelley, a citizen of Delaware District, Cherokee Nation, having reported that he has employed Joseph Kelley and Buck Kelley, laborers and citizens of the United States, permission is given said Joseph Kelley and Buck Kelley to remain in the limits of Delaware District, Cherokee Nation, twelve months from date hereof, this January 1, 1876.

(Signed)

J. T. CUNNINGHAM,

[SEAL]

Clerk Delaware District, C. N.

I herewith submit a list of the children and grandchildren of Muta A. Kelley, former wife of J. D. Kelley (the said Muta A. Kelley being now deceased) and the children in families are as follows, to-wit:

Franklin Kelley, born November 18, 1874—married a white woman, United States citizen

Tilley Kelley, born June 1, 1874, wife of Franklin. Nee Miss Tilley Hall.

Dulcie Kelley, born October 2, 1895—child of Franklin and Tilley Kelley.

Edward Madding, born January 1, 1870—husband of Fannie Monroe, nee Kelley.

Fannie Madding, born September 17, 1860—formerly Monroe, nee Kelley.

Minnie Madding, born April 3, 1893—child of Edward and Fannie Madding.

Maud Madding, born July 18, 1895; Vauda Madding, born July 18, 1895—twins, and children of Ed. and F. M.

Beulah Monroe, born October 17, 1893; Muta Monroe, born July 30, 1888—children of James Monroe, a Cherokee, and Fannies' first husband.

Grover C. Monroe, born September 19, 1889.

Theodore Monroe, born June 23, 1890.

John D. Kelley, Jr., born March 30, 1858—married a Cherokee woman.

Susie Kelley, born October 1, 1863—wife of John D. Kelley, Jr.

Grace Kelley, born September 26, 1881.

Birtie Kelley, born June 29, 1885.

Effie Kelley, born February 14, 1887—children of John D., Jr., and Susie Kelley.

May Kelley, born February 10, 1894.

Robert E. Kelley, born November 30, 1863.

Alba A. Kelley, born April 11, 1864—wife of Robert, and a claimant.

Audra Kelley, born December 5, 1886.

Charles Kelley, Jr., born November 2, 1888; Verda Kelley, born December 5, 1891; Fay Kelley, born May 21, 1895—children of Robert E. and Alba R. Kelley, these being claimants by blood.

Theodore Kelley, born March 24, 1856.

Dorcas Kelley, now deceased nee Miss Dorcas Duncan, Cherokee citizen.

Alba Kelley, born July 5, 1882; Cora Kelley, born October 22, 1883. These children of Theodore and Dorcas Kelley are recognized.

William Kelley, born in March, 1866.

Della Kelley—a recognized Cherokee citizen.

Mirtle Kelley and Howell Kelley—children of William and Delia Kelley, recognized by the Cherokee Nation.

Charles Kelley, born about the year 1874—son of J. D. and Muta A. Kelley.

Joseph A. Kelley, age 26 years—wife and two children Cherokees by blood.

I respectfully submit the foregoing and ask you to recommend the coming Congress of the United States to form some legislation that the question of citizenship may be finally and amicably settled.

J. D. KELLEY.

Subscribed and sworn to before me this, the 11th day of November, 1895.

JOHN J. HUBBARD,  
Notary Public.

My commission expires May, 1898.

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STATEMENT OF MRS. ALICE ROONEY.

MULDROW, Ind. Ter., Cherokee Nation, }  
November 22, 1895 }

Mrs. Alice Rooney, after being duly sworn according to law, says:

My age is 32 years. I am the daughter of Sarah Murphy, who was the daughter of Willoughby Suggs, late of the State of Tennessee, who was of Cherokee descent, and was, from history, so recognized by the people of that state. My mother, Sarah Murphy, resides at Springfield, Mo. I have two brothers, John and James Murphy, and one sister, Maggie Murphy, all of Cherokee blood.

In the fall of 1892 I made application to the Cherokee National Council for readmittance to citizenship under the Cherokee law. Proof of my Cherokee blood was made conclusive. The Cherokee authorities required all applicants for citizenship to prove lineal descent from some ancestor whose name was on the official rolls. I sought advice and obtained the same from W. W. Hastings, then attorney for the Cherokee Nation. The first thing to be done, he said, was to examine the Cherokee rolls for names of my ancestors, which he reported were on the rolls. Mr Hastings said I had a just

claim for citizenship. He said his fee would be \$100, \$50 of which he required in advance, which I paid, believing him at that time to be telling me the truth. Mr. Hastings drew up my petition to present to the National Council in November, 1892, and agreed to represent my case before the council, at which time he informed me by letter that my proof was conclusive and I need not come to Tahlequah, that my application was properly filed before the council.

See copy of his letter :

Office of Geo. W. Hastings, Atty. Gen., }  
TAHLEQUAH, Ind. Ter., Oct. 29, 1892. }

Mrs M. J. Rooney, Ft. Smith. Ark. :

Your last letter received, with affidavits enclosed, and allow me to say : That the testimony seems positive and explicit. They are placed on file. Will be glad to see when you come up.

Yours etc.,  
W. W. HASTINGS.

In December following there was a call council. I went to Tahlequah to look after my claim. I went to the clerk of the council to see if my claim had been filed as stated by Mr. Hastings. I was informed that the claim had not been filed, after which I found that the names of my ancestors did not appear on the Cherokee rolls as stated by Mr. Hastings. I was then seventy miles from home and at a great expense. I went to Mr. Hastings' office and to his boarding house and to his drug store but could not find him. I learned he was dodging me and would not see me. I became very much worried over the matter, being at Tahlequah at a heavy

expense. I finally went to Chief Harris and told him I must see Mr. Hastings and the chief took me to where Mr. Hastings was, in a room at the capitol building. I demanded an explanation and told him that he had misrepresented the facts to me and that he must comply with his contract. He seemed to be quite busy and said he would go that evening before the council and report my claim. I waited several days at my hotel for him to report to me what progress he was making with my claim. Finally I became worried and disgusted and demanded an explanation. He refused to talk to me but sent William Thompson to my hotel who informed me that Mr. Hastings said he could not go before the council in my interest. I suppose his official position, that of Attorney General, prevented him from doing so. I wrote Mr. Hastings a note and told him if he didn't come to my hotel and make some arrangements to carry out his contract I would see if there was any law to make him responsible for his acts. Late that evening he came to my hotel. I informed him that he must carry out his contract or refund the \$50 I had paid him on his fee and would give him until morning at 9 o'clock to refund the money, telling him that if he didn't refund my money by that time I would take the stage and go to Muskogee and file information before the Federal authorities for obtaining money under false pretences. Next morning at 9 o'clock he came and refunded my money, while my claim was pending before the council and believing I would have no trouble in being admitted to citizenship.

I purchased a farm near Muldrow, Cherokee Nation, Indian

Territory, and with my husband and one little boy, my only child, now 11 years old, we moved on to the farm and have expended no less than \$750, and have a comfortable home well stocked. The Cherokee authorities now say after January 1, 1896, they will take charge of my home and convert the same into the Cherokee Nation by selling to citizens of the Cherokee Nation under an act of their council. If there was a tribunal of justice I could go before I would have no trouble to prove my Cherokee blood.

This is a parallel case with hundreds of others whose homes are to be confiscated after January 1, 1896.

I make this statement in order that justice may be extended to all and that my home may be protected.

Respectfully,

ALICE ROONEY,

Wife of M. L. Rooney.

Subscribed and sworn to before me this 22nd day of November, 1895.

W. J. WATTS,

Notary Public.

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I could cite you to a number of cases, some among the class who are full blood Cherokee Indians, whose names have been placed upon the intruder roll. Among these families I will mention a few: That of William Stephens, a well known Cherokee, who has resided in this nation for 25 years; the case of Emeline Goodmand and heirs, who came to this nation under an invitation issued by Principal Chief of the Cherokee Nation

in 1870 ; the well known Elliott family, who were Cherokees without a doubt ; the Ward family, whose claim for citizenship was filed in 1871 under the act of November 18, 1870, who have a number of relatives who are recognized as Cherokee citizens. Henry Ward, John Ward and Augusta M. Ward, who are now deceased, were known to be of Cherokee blood and were recognized by a number of Cherokee citizens as such. The heirs of Mrs. Rebecca Crawford, who was an own sister to the above named Wards, who with her children, N. J. and W. A. Crawford, moved to this nation years ago in order to live with their people—the Cherokees whose Christian influence, though she be dead, will ever live in the memory of a large number of Cherokee people.

The Fields family, who are all full blood Cherokees ; William M. Goin and family, the heirs of Cynthia Goin, an old Cherokee woman now 78 years old, who came from Tennessee and was admitted to citizenship by John S. Vann, Chief Justice of the Supreme Court in November, 1871, whose children and grandchildren now reside in the Cherokee Nation and are termed intruders ; Mrs. Vandalia Ryan, a daughter of the said Cynthia Goin, and who now resides at Claremore, Cherokee Nation. She is at least a half breed Cherokee woman and is taking care of her aged mother, a Cherokee woman, who is branded with the stigma of intruder in her declining years.

The well known Hubbard family, formerly of the state of Tennessee, who some years ago in order to live with their people removed to the Cherokee Nation ; who have opened up large farms and assisted in erecting churches and institutions of learning, and in the building of towns ; who have pleaded

with the Cherokee authorities for years to recognize their Cherokee rights, and which have all been in vain, notwithstanding the proof and records of the family being Cherokee is indisputable. Besides hundreds of others whom I could mention, whose improvements made since August 11, 1886, are to be confiscated after January 1, 1896, under the Cherokee construction of the Strip agreement.

Gentlemen, there is now a strong delegation of Cherokees, accompanied by the Principal Chief of the Cherokee Nation, in Washington with a strong memorial urging the Secretary of the Interior to remove all persons whom the Cherokee authorities term intruders beyond the limits of the Cherokee Nation, including those who were legally admitted to citizenship by the Supreme Court or Chief Justice of the Cherokee Nation under the Act of November 18, 1870, as is clearly indicated by the following communications, unless prevented by the strong arm of the United States Government :

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EXTRACT FROM ANNUAL REPORT OF AGENT D. M.  
WISDOM

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INTRUDERS.

In my last report I expressed the opinion that the decision of the Interior Department in the case of John O. Cobb et al., had simplified the question of citizenship, and had settled the status of a large number of persons hitherto held as rejected

claimants. This decision has been followed up by a similar one in the Watts case and its determination has done much to reassure Cherokees that the Government means to enforce its treaty obligations and agreements, and in due time unload that nation of a class of intruders who have menaced its sovereignty for a long period of years — since there is no doubt that the Government, by its inaction, has fostered an element whose presence has been productive of strife, internal feuds, and a personal friction that has marred the usual peaceful routine of the affairs between citizens and non-citizens in this agency. I am not sure that the matter demands further attention at my hands—either in the way of recommendations or suggestions. I think, however, it is due to candor to say that, in my opinion, the removal of rejected claimants to citizenship is a matter that can be accomplished by the intervention of the military, without much expense or the shedding of one drop of blood. The majority of these intruders live near the Kansas and Arkansas lines, and I do not think it would be either cruel or unjust to them to move them within the boundaries of said states and out of this Territory. It would put them out of a so called semi-barbaric country into a land of milk and honey, schools and churches, where progress is the watch word and where every man can acquire a home who is willing to work and enjoy the boon of holding in severalty and worship God under his own “vine and fig tree”. It may be that in the course of human events a political Moses will be found to take these people to this land of promise.

I think the sum of five thousand dollars, judiciously ex-

pended, would rid the Cherokee Nation of intruders, and I recommend that an appropriation of that sum, by Congress, be made for that purpose. I know that it is argued that allotment of lands in severalty would bring about a settlement of the intruder question because lands would only be allotted to Cherokees by blood and, therefore, each allottee could apply to the courts and get an ejectment writ against a declared intruder or a rejected claimant, and, in this way, the intruder or trespasser upon Indian soil would be eliminated from the body politic. This view of the case seems to me to be fallacious as well as indirect, and as likely to involve the rightful owner in litigation. His allotment would come to him loaded with a law suit, and his ultimate right must be asserted in the court house. This means delay, vexation and expense. The direct, honest mode—it seems to me—is to remove the intruder bodily and let the Indian take his heritage for which he has paid the full measure of its value—sometimes in blood and sometimes in money—but often in both—without let, incumbrance or delay.

The United States, in my opinion, should assert the power and dignity of a great nation by direct methods, and not let the weaker Indian be compelled to contend in the courts for a right which belongs to him free and untrammelled. Again, I am satisfied that the intruders or rejected claimants do not mean to surrender their alleged rights, which have been decided as untenable by the Interior Department, without a struggle. Indeed, there is already a mové on foot, in certain districts of the Cherokee Nation, by which the said claimants propose to organize a nation inside of the Cherokee Nation, to be known as

the "Cherokee Indian Nation," basing their claims upon certain clauses of the treaty of 1866, made between the Cherokees and the United States. All acknowledged citizens of the Cherokee Nation, and all persons who can substantially prove themselves entitled by blood or adoption, by marriage or otherwise, may become citizens of this new government. After their organization they propose to ask the government of the United States to protect them, and to hold themselves amenable only to the laws of the United States, and to grow up as a new nation, under the shadow of the Cherokee Nation, whose laws they do not propose to respect but will openly defy.

A meeting of this kind was held at Vinita, Indian Territory, on the 12th ultimo. It represented constituents animated by the above purpose, and so long as they have a foot-hold—a residence, legal or not—in the Indian Territory, they will be disturbers of the peace and promoters of discord; and while they cry aloud, and spare not, for allotment and statehood, they are but stumbling blocks and obstacles to that mutual good will and fraternal feeling which must be cultivated and secured before allotment is practicable and statehood is desirable.

In further proof that the rejected claimants to citizenship, especially those known as the "Watts Association," do not intend to submit in good faith to the rulings of the Interior Department, I herewith submit certain correspondence which explains itself. The first letter is one written by this Agency of date July 2, 1895, to Mr. W. A. January, Pryor Creek, Indian Territory, whose wife is a member of the Watts family, and relative of W. J. Watts, who is commonly known as

"King of the intruders in the Cherokee Nation". The second letter is a reply by W. J. Watts, written to W. A. January, in which he comments upon my letter to said January. It will be seen that Mr. Watts expects that the coming Congress will provide some plan whereby justice may be done all parties, and this intruder question may be more definitely settled. I submit this correspondence as a suggestive one, and as worthy of appropriate consideration by the Interior Department.

#### CONCLUSION.

Despite the complex condition of affairs of this agency, the inevitable clash between opposing elements of society, the lack of full jurisdiction in our courts, the uncertainty in our land tenure, and that uneasiness under salutary restraint which now and then erupts into outlawry and swells the criminal calendar, the five tribes show a considerable advance in prosperity and also an increase in numbers. They have erected new, and in many instances, costly residences, and have enlarged their farms, and have redeemed the waste places from their primitive condition and made them smile with the badges of industry and peace. By some this fact is used as an argument why the Territory should be admitted to statehood; by others it is contended that it proves that the Indian is capable of self government, and can stand alone in the direction and control of his own affairs. Viewed either way it portends, at no distant day, a settlement of the vexed Indian problem.

The practice of intermarriage between whites and Indians is also a steady factor in changing the social status of our

people. Indeed, Joel B. Mayes, once a great chief of the Cherokees, said to the writer: "Let the boys and girls alone. In the next twenty years they will settle the Indian question in my tribe according to the old rule" (as he said) "under which Abraham begat Isaac and Isaac begat Jacob, and so on down through the generations of men."

The writer interposed no objections to the fulfillment of Uncle Joel's prophesy. At any rate, taking into consideration the abundant crops with which Providence has blessed this country during the past year, the outlook for the future welfare of the five tribes is promising and reassuring, and there is nothing in the situation to disturb the dream of the sentimentalists or to participate radical measures of relief by political charlatans. It must be remembered that "change is not always reform," and President Cleveland has well said, "A slow movement toward American citizenship, fully understood and approved by the Indians, is infinitely better than swifter results gained by broken pledges and false promises."

Finally allow me to express my thanks to the Indian Bureau for courtesies extended me in the discharge of my duties during the past year, and to assure it that I appreciate its able co operation and supervision in managing the affairs of this agency. I foresee trouble and perplexities ahead of me in the near future, but I shall endeavor to meet them to the best of my ability, and trust that no act of mine will bring discredit to the Indian service.

Respectfully submitted,

DEW M. WISDOM,

U. S. Indian Agent.

To the Honorable, the Commissioner of Indian Affairs.

## THE LETTER OF AGENT WISDOM TO MR. JANUARY.

Union Agency,  
 MUSKOGEE, Ind. Ter.,  
 July 2, 1895. }

*Mr. W. A. January, Pryor Creek, I. T.*

SIR: Yours received. The letter written to J. C. Moretz, Pryor Creek, Ind. Ter., on January 22, 1895, a copy of which you furnish me, is a genuine document and was issued by this office and I am responsible for it. It contains my views as to the rights of claimants to citizenship in the Cherokee Nation, and the views expressed in said letter I expect to enforce against all claimants. You state in your letter (to which this is a reply) that your wife is a relative of W. J. Watts. Therefore her claim to citizenship depends or is based upon Watts' claim to citizenship, which was decided adversely by the Cherokee authorities, or in other words, the claim of W. J. Watts was rejected by the Cherokee authorities.

I take this occasion to inform you that I have received a copy of the opinion of Hon. John I. Hall, Assistant Attorney General for the Interior Department, which was approved by Hon. Hoke Smith, Secretary of the Interior, in which he says:

"I am of the opinion, as heretofore expressed in an opinion in the case of Cobb and others vs. Cherokee Nation on July 19, 1894, that the jurisdiction of the Department to review said decision is taken away by the agreement of March 3, 1893." He further says:

"I am satisfied, from a careful examination of the record, that the Cherokee authorities reached the right conclusion in this case." It will, therefore, be seen that the Department

endorses the action of the Cherokee authorities, which rejected the Watts' claim to citizenship, and hence all those that claim under the Watts' claim must be held as intruders. In your letter to me of June 29, 1895, and to which this is a reply, you state that in August last you bought a farm of J. C. Moretz in which the lines had been agreed upon, and this past winter you fenced to the line and no further, and there was still no objection by Moretz or any one else. Accepting your statement as true, the conclusion is irresistible that you have been extending and enlarging your improvements in the Cherokee Nation since the filing of the original Watts claim. This enlargement I hold to have been in violation of law, and as you have been declared an intruder in the Cherokee Nation, you have no right to hold any improvements therein which you have acquired subsequent to the filing of the original Watts claim, and you can only remain on your original claim until January next; and you so remain by an Act of Congress as a matter of grace—as I understand it—and not as a matter of right. I advise you, as a friend, to take this view of the matter, because, in my opinion, you are an intruder in the Cherokee Nation, and when the proper time comes—and I am not restrained by some act of Congress or by some ruling of the Department—I shall treat you as such. Under the treaties between the United States and the Cherokee Nation, the Cherokees are entitled to protection against intrusion, and I expect to carry out the treaties so long as I am agent, both in letter and in spirit; and the fact that the Watts organization may be formidable in numbers will not deter me from discharging my duties in the premises. If you have not intruded upon Mr. Moretz you have certainly intruded upon

the public domain of the Cherokee Nation, and the latter is sufficient to justify me in taking any other action that I may see proper to take when the time of action arrives.

Very respectfully.

D. M. WISDOM,

U. S. Indian Agent.

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MR. WATTS' REPLY.

MULBROW, Ind. Ter., }  
August 28, 1895. }

*W A. January, Pryor Creek, I. T.*

DEAR SIR: In reply to your inquiry of the 25th inst., as to what effect the recent decision of Col. D. M. Wisdom, U. S. Indian Agent, published in the Pryor Creek Constitution of the 23rd inst., against you and in favor of J. C. Moretz, would have upon your case and others of the Watts family, will say:

I do not see that this decision will materially effect you or any of the Watts family. Col. Wisdom well knows that the Watts family has been protected in the possession of their improvements in the Cherokee Nation since 1875. He further knows the resolution passed by the last Congress suspending all action looking to the removal of the so called intruders until January 1, 1896. Any ruling affecting the Watts family until after that date, would be arbitrarily taken. I think his ruling in your case is premature and deserves severe censure. He says that, in his opinion, you are an intruder and have no right to hold any improvements since the filing of

the original Watts claim in October, 1871. Mr. Wisdom has a right to express his own opinion, but in this case his opinion is adverse to the rulings of the Interior Department since 1875.

As to the opinion of Hon. John I. Hall, to which Mr. Wisdom refers, it does not effect the status of any person of Cherokee blood. He only says: "In my opinion the ratifying of the Strip agreement, March 3, 1893, takes the jurisdiction from the Interior Department to review any adverse decision made by the Cherokee authorities." In this opinion I think Judge Hall is correct and throws the question of citizenship together with all other unsettled questions now pending in the Cherokee Nation before the Judiciary Department of the United States Government to settle. It is true that Judge Hall—after rendering this opinion—in his sarcastic way, says: "I am satisfied from a careful examination of the record, that the Cherokee authorities have reached the right conclusion in this case."

Compare this opinion with that of Hon. Geo. W. Parker, special agent sent to this nation to investigate this same question and report to the Interior Department the facts in the Watts case, who, after twenty-three days of investigation, said: "I find the Watts family to be Cherokees, filed their claim in October, 1871, and were legally admitted to citizenship. So you see, an opinion, though coming from one high in authority, does not change the facts in the case.

I advise you and all other claimants to remain in possession of your farms until January 1, 1896, and if it is the duty of the United States Government to remove you from this nation and the proper authority should be delegated to Colonel

Wisdom to perform the removal, I know of no better man to perform the work. My humble<sup>d</sup> opinion is that the coming Congress will provide some plan whereby justice may be done all parties.

W. J. WATTS.

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### ANALYSIS OF THE STRIP AGREEMENT.

In this agreement (Art. 1) occurs the clause "Constituted authorities of the Cherokee Nation." Under this clause a majority of the Cherokee people find—as they say—a basis for the theory that that class of people called intruders are to be removed immediately, and without any further investigation—removed after the 1st of January, 1896—upon the past demand of the Principal Chief and without any discrimination.

This theory springs the question: Who are the constituted authorities of the Cherokee Nation? To this question, almost as the voice of one man, we hear the Cherokee citizen say, the constituted authority of the Cherokee Nation is found in the authority lodged in the legislative, judicial and the executive branches of the Cherokee Government. This would be a correct answer if we were a year or two in advance—if our relation to the general government was identical with that of the state of Arkansas, then the answer would be correct. True, the relationship is hard to see and harder to express, but all will agree that it is not identical with that of a state.

The general government interests herself about us, as she

does not about the citizens of Arkansas. In recognition of this mysterious relationship, the less self interested, and equally thoughtful reader is heard to say that "the constituted authorities of the Cherokee Nation" includes the legislative, judicial and executive branches of both the Cherokee Nation, and the United States government, in so far as the latter has been organized into departments to supervise Indian affairs, and to legislate for the direction of the interests of the tribes. Such thoughtful reader takes in the conception of the Cherokee mind, but feels forced to place at the last end of such conception the mark (x) plus

This less self-interested reader—his hoodwinks—aside reasons thus, if the intention of this agreement was to remove these so-called intruders by the authority of the Cherokee Nation alone - then this clause would have been formulated as follows, to-wit: "By the authorities constituted in the Cherokee Nation," but instead we find the clause in the face of the agreement to be "the constituted authorities of the Cherokee Nation."

The first formulation clearly implies that it is within the scope of the authority of the Cherokees to designate the parties for removal, while the latter formulation - that carried by the agreement—as clearly indicates that it is within the scope of the authority of the Federal Government to review and confirm their actions. The right to supervise and approve or disapprove is recognized by the clause as it stands in said agreement. The man who lays aside his hoodwinks must see that as the clause is formulated in that agreement, that it is in conformity with all past usage and becomes at once an empha-

sis to the very voluminous records now on file and which amply proves what the usages of the past have been in such cases. On the other hand he must see that if the intention of the parties to this agreement was to clothe the authorities constituted in the Cherokee Nation with power to designate who should be removed that the clause would have been written "the authorities constituted by the Cherokee Nation." Had it been written thus, the effect and force of it would have been to ignore every past usage and to abrogate the records now on file, and which form the history to the relationship existing between the Federal Government and the tribe. It will be seen, therefore, that if the theory propagated by the Cherokees is correct, then the formulation of this clause is most misleading.

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To strengthen the position taken in the first article, we follow Mr. Noble, Secretary of the Interior, through his review of the agreement in question.

First, we find the following: "There is no reason that intruders in the Cherokee Nation should not be removed upon a fair ascertainment of the individuals. The word "fair" carries the important idea to be conveyed. It implies that the ascertainment of the individuals, whose removal is demanded under this agreement, was in his opinion unfair, and that a fair ascertainment of the individuals would involve the agency of other authority than that making the unfair "ascertainment."

He says: "The Assistant Attorney General expresses it as his opinion, in which I decidedly concur, that under the

very particular enumeration in the agreement of classes to be removed, the executive, legislative, and judicial departments of this Government will retain the right to redress any wrong that might be inflicted by the Cherokee Court or the demand of the Principal Chief." Attention is called to the language, "under the very particular enumeration of the classes to be removed."

It simply indicates that the Assistant Attorney General detected a scheme, and determined to thwart it, and of his determination to thwart it he gives notice by the declaration that the executive, legislative and judicial departments of this, the United States Government, will retain the right to redress any wrong inflicted by the anticipated scheme.

Mr. Noble then closes his review of this particular phrase of this agreement by saying: "I recommend as he, the Assistant Attorney General, suggests that if there is any doubt by Congress on this question the reservation of the authority in this government ought to be expressed in any act of ratification."

"Any doubt on this question." What question? Evidently the question of authority by the several departments of the United States government named to redress any wrongs perpetrated by the parties to the scheme detected. It would seem that the advice given by the two high authorities jointly in this case, and then acted on by Congress in so amending the agreement as to a reserve that authority before the agreement was ratified would be sufficient grounds upon which to base an opinion that said reserved authority would be exercised when any wrong inflicted by the courts of the Cherokee Nation or

Principal Chief should be shown up. If the delegation for the parties wronged under the conditions of this agreement, fail to disclose the wrongs inflicted by the Cherokee Courts, and which are to be executed by the demand of the Principal Chief, then no authority reserved is of practical utility in this case.

But if said delegation demonstrate beyond any reasonable doubt that great wrong would be inflicted by the removal of these people having *prima facie* the right to the homes they occupy, then the affirmations and opinions quoted from these authorities backed by the amendment given the Strip agreement before it was ratified by Congress become at once the prelude and pledge that the authority lodged in the departments named by Assistant Attorney General Shields will be exercised in redressing said wrongs.

At the risk of sacrifice to my sense of justice I want to say that the delegation to Washington in behalf of these so-called intruders will not fail to show beyond any reasonable doubt the most glaring wrongs and the most determined effort of public robbery ever known among any so-called civilized people.

With a clear and unmistakable exhibit of facts as they exist, and under the prelude and pledge of the department and Congress, all having a basis upon justice and humane principles, that delegation need not, yea, will not fail to enter a plea to Congress, or anywhere else, for a redress to threatened wrongs, involving an incalculable amount of suffering to helpless women and children, with great assurance of success

The review of Mr. Morgan, Commissioner of Indian Affairs, will be short. Says he, "I do not see that any new

obligation in respect to removal of intruders is entered into with the Cherokees in the agreement, and it seems to me only a reiteration of obligations already in force." This language, if it carries any significance, simply recognizes the obligations of former years as still binding and as applying to real intruders, but has no reference to ushering from their homes, that class who came to this nation as Indians by the invitation of the authorities of the nation, and complied with the law for readmission, and who after their rejection, gave notice of appeal to the Interior Department.

Nor does it have reference to that class who, after being readmitted, was afterwards discitizenized, nor does it refer to the removal of any man or woman who will persist in affirming Cherokee blood and in demanding a just and fair ascertainment as to whether in fact and in law he or she is possessed of Cherokee blood. Until a fair ascertainment of the facts in the case shall have been reached, no removal is, by this language anticipated, as is shown by the next clause of Mr. Morgan. He says:

"It may be that some collateral questions will arise under this provision of the agreement for future determination, on the question of claimants for citizenship in the five civilized tribes."

The language last quoted from Mr. Morgan hinges the possibility of raising questions of citizenship for future determination, upon the persistency of the claimant in demanding such determination, by the reviewing and redressing authority reserved in the United States Government to that end.

It follows therefore that there will be no question for

future determination by the authority of the United States Government, in such cases as are not persistently represented before said Government, and to any person not persisting we would say your destiny is already sealed under this agreement, and the sooner you realize the fact the better for all involved.

That this is true I quote from Mr. Shields—Assistant Attorney General - while in review of this agreement. And as he quotes from the Attorney General, we have the opinion of both of these authorities on the point in hand. Says Mr. Shields: "When demand has been made by the Cherokee authorities for the removal of those whom they asserted were intruders, this Department, whilst disclaiming the right to determine who shall become citizens of the Indian Nation, has insisted, under the advice of the Attorney General (16 ops. 404) that it was incumbent upon the United States first to ascertain whether the alleged intruders were such in fact and in law. And if, upon investigation, it was found those parties were, in the opinion of the United States authorities, entitled to citizenship, but had been unjustly deprived of or refused their rights, then to decline to remove them."

It is true this is stated as being the policy of the department anterior to the question raised by this agreement, but as it stands in connection with the review of that agreement by this authority its significance cannot be misunderstood: "It is incumbent upon the United States first to ascertain whether the alleged intruders were such in fact and in law." How shall the United States ascertain the facts unless those facts are set forth by evidence in the several cases by the parties themselves or by proxy? If such facts are attempted to be set

forth they must reach the final decision before removed—for “the United States must first ascertain whether the alleged intruder is such in fact and in law.” The word “first” implies in this connection that the ascertainment must precede the removal

N. J. CRAWFORD.

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In connection with the language quoted in the former article, the following is found :

“Further than this, it has been insisted by the Indian Office, where it was determined parties were such intruders and ought to be removed, they should have ample time to garner or dispose of their crops and improvements on the land which they occupy, and because the Indians were not willing to pay these parties what were considered fair prices for said improvements, a bad faith was charged and the removals were not made. This language refers exclusively to those found to be intruders in fact and in law. My purpose is not to defend such in further intrusion, for I abominate it; but I introduce it in defense of justice and humane treatment to those who have done wrong and without any reference to the spirit leading to the wrong.”

This language of Mr. Shields', expressed in his review of this Strip agreement, certainly indicates what he thinks is right and what will be the probable treatment of those who are found to be real intruders and subjects of removal after a final investigation and determination of their cases. The language is not only authoritative, but humane and just, and will be

observed beyond any doubt and carried out under his advice by the departments having the jurisdiction of the matter involved.

But his language bespeaks an antecedent determination of the facts in the several cases, under which the treatment indicated should be given if the parties are found to be intruders in fact and in law. Then he indicates a treatment. That treatment is, they must have ample time to garner their crops and get a fair valuation for improvements on the lands they occupy. If these things are not allowed them then I infer that it is their privilege to demand and investigation, and upon a showing made by them of a necessity for extension of time, the Government will hear and protect her own citizens. There is absolutely no necessity in such cases for citizens of the United States Government to regard the decisions of the Cherokee Courts where injustice may be inflicted upon them by said courts.

Mr. Shields next takes under review that paragraph which so particularly enumerates the classes to be removed under the conditions of this agreement.

First, He says : "Whether this paragraph will accomplish the purposes intended, remains to be seen."

From this language we infer he refers to the purpose of the commissions formulating it. He certainly entered into the spirit and claim of the Cherokee people, which is that they desire and claim the right to designate all persons for removal and demand through the Principal Chief.

With only an analytical glance, which raises a question as to its capabilities to the desired end, he passes on to find cer-

tain opinions mutually entertained by the commission negotiating this agreement and the Commission of Indian Affairs. The mutual opinion of these was, that the conditions of this agreement were such, that if adopted, no new obligation or duty was assumed, but only a renewal of promises to fulfill old ones was made by the United States Government. Mr. Shields says I agree to this conclusion. After deliberating on what had called out the expression, "whether this paragraph will accomplish the purposes intended remains to be seen." We find the following language, to-wit :

"If (in the formulation of this paragraph) the intention of the Cherokees was to oust the jurisdiction of the United States to determine whether the persons sought to be removed came within the excepted classes, or to prevent the United States Government from enforcing its laws for the protection of its citizens within the Territory, then the language chosen does not accomplish this object."

To what particular language of this paragraph does Mr. Shields refer? Evidently to the leading clause in said paragraph. "The constituted authorities of the Cherokee Nation" This clause is the enabling one for the designation of persons to be removed.

It is evident that somebody is empowered by this clause to designate who shall be removed. The constituted Cherokee authorities claim such power. It is manifest, therefore, that by virtue of the force of this clause they did intend to oust the jurisdiction of the United States Government in the matters referred to in the paragraph.

Mr. Shields thinks the words chosen will fail to accomplish

the purposes, and that the jurisdiction of the United States Government is not ousted. My reasoning on this prominent clause, which fails of the intended purpose has already been given (Art. 1 Strip agreement). Had no constitutional amendment been given forstalling the purposes of the Cherokees to "oust" the jurisdiction of the United States Government this clause as analyzed would be sufficient grounds to protect their claim.

In immediate connection with the foregoing quoted language, Mr. Shields says: "I am of opinion that the executive, legislative and judicial departments of this Government will retain the right to redress any wrongs inflicted by the Cherokee Courts or demand of the Principal Chief." Then he adds the following: "With this construction I see no objection to the proposed immediate removal of those who are intruders and illegally within the bounds of the Cherokee Territory; but if there is any doubt on this question the reservation of this authority in the Government ought to be expressed."

The points in the language just quoted are these:

1. If the agreement is ratified as it stands under my (his) review, it is my (his) opinion that the several departments of the United States Government will still hold the right of review and redress.

2. With this right retained, he sees no objection to immediately proceeding to the removal of persons who are intruders in fact and in law.

3. Should there be doubt in Congress as to whether the right of review and redress is as clearly deduceable from the terms of the agreement as ought to be, then he advises that

Congress amend so as to clearly and unmistakably reserve such right to review and redress any wrongs inflicted by Cherokee Courts or demand of Principal Chief.

Under this advice and no doubt with the avowed purpose to make this question intelligible to the less thoughtful, Congress amended by subjecting the whole agreement, in all its parts, to the Constitution of the United States, the acts of Congress that have been, or may be, passed, governing trade and intercourse with the Indians."

Attention is called lastly to Mr. Shields' language, while in review of the question of jurisdiction as sprung by this agreement. Says he: "Doubtless the United States by virtue of her sovereignty possesses the right of supervision over this Indian people and all their affairs; and whenever the exigency of the occasion may require the exercise of this extraordinary power, such laws as may be necessary and just will be enacted, promotive alike of the welfare of the Indians and the people of the United States.

This affirmation covers in its scope of application all the affairs involved in tribal relations, and under the conception expressed therein, we do not hesitate to file a plea for the exercise of Congressional power in the exigences of the present occasion.

Respectfully,

N J CRAWFORD.

## A SCATHING LETTER TO INDIAN AGENT WISDOM.

MARCUM, I. T., }  
October 23, 1895. }

*Col. D. M. Wisdom, Muskogee, I. T.*

DEAR SIR AND FRIEND: As a lover of peace, and in the hope of doing something to heal a breach involving the feelings of so many, and in a way to affect them illy, I am induced to address you through the columns of the Muldrow Register, believing that my object will be reached the better thereby.

I very frankly and very kindly assume that you are not justifiable in demonstrating through the public press as you are represented to be doing in relation to that class of persons decided adversely to by the Cherokee courts as "intruders."

Should it be found that certain members of this class have fallen under your jurisdiction or the jurisdiction of any court of the United States Government clothed with full power to finally adjudicate, and this fact can be properly authenticated by official records properly attached, then that number of cases so decided adversely are not covered by the foregoing assumption. That the position assumed is a correct one, I ask you to consider. Under the very best authority, we define an intruder to be one who ushers himself upon others without invitation, without welcome and without right.

With this definition of the word "intruder" before us we proceed to give the following analysis of definition: An invitation necessarily carries with it and involves the idea of welcome, unless he who gives the invitation is insincere, and

practices hurtful deceit. Again : The words, invitation and welcome, blending as shown above, necessarily implies a right if not an inherent right, then a right guaranteed. Under this definition and analysis of the word "intruder" I call attention to a fact which must have slipped your memory that many —perhaps a large majority of those you brand with the epithet "intruder," are here by virtue of an invitation from the authorities of the Cherokee Nation.

It must be true, sir, and in all fairness is here admitted, that under the preceding definition analysis those causes have been heard and against whom adverse decisions have been rendered by the Cherokee authorities may be, without carrying any semblance of slander, called intruders by the authorities thus adjudicating their causes, providing the rejected have given no public notice of their having appealed the same to a court having legal right to review and reverse the adverse decision of the Cherokee authorities ; or provided secondly, that such Cherokee authorities conscientiously ignore and deny the right of review, reversal and redress by any court of higher rank ; provided further, that the justness and freedom from slanderous intent attaching to the epithet be measured by the degree of fairness or unfairness meted out in the adverse adjudication of the several cases by the Cherokee authorities. May not a question spring from a thoughtful analysis of the true condition last named, as to the propriety and just grounds for a slander suit ?

The question couched in my last sentence aside we admit that there are reasons found in the very nature of the case at issue which hinder the Cherokee mind from grasping much,

necessarily involved, and rejoice to know that even if the rejected claimant should feel the sting of a minor injustice or petty slander so inflicted by charges, the grace of charity may be called out thereby to his profit.

But your relation to this issue is conceived to be that of a mediator. It had been thought that your views would be broad enough to secure at least a chance of remission from past sins, even if the "great Father" was offended. The public press representing you, fixes you wholly on one side of the issue, hence the conclusion is reached that your meditational position and work have not been as Christ-like as some other equally large buck of humanity might have made them. The reasons for such conclusions are as follows :

1. Should you base your opinions upon mere conception of justice, using justice instead of law, then you violate—yea, abrogate every formulation of law; for if law is formulated upon principles of justice, then necessarily the leading characteristic of all written law must be to protect the supposed criminal from all slanderous and hurtful assaults until he either tamely submits and confesses his crime, or until he exhausts every resource guaranteed to him by the fundamental laws of the land of which he is a subject; and if in the application of these he should fail to exterminate himself from the supposed crime, by such necessity he must be a real victim to crime, and as such, now—not before—may receive his appropriate epithet of thief, robber or "intruder".

Is it not a fact, Colonel Wisdom, that our codes of law, in all their magnitude—the practices thereon aside—are written in this spirit and with this visible intent? Is it not a fact that

when you say in your report that you see no "injustice or cruelty" in immediately removing these people to the borders of the several states you name, that you ignore the true relationship existing between this nation and the United States Government, and set aside the right of review and reversal growing out of that relationship ?

However you may receive the preceeding question, and in the absence of your answer we affirm that you are so abusing your official relation as to feed necessarily prejudices that will ripen into animosity and terminate in blood letting long after we go to our graves !

2. Should you base your opinion upon the records found at our capitol, I assure you that we know their form to be such as to forbid you or any one else from indiscriminately applying the word "intruder" to a class of people, many of whom not only identify to ancestry on the Cherokee rolls, but some of whom hold properly authenticated certificates of citizenship duly recorded in the national house at the capitol, unless recently lost.

3. If you are wont to claim the "Strip Agreement" as the basis of your opinions, then you must overlook or ignore the following facts :

1. That the original stipulation, in the judgment of Congress, was defective. The amendment thereunto indicates the nature of the defect. If a constitutional defect in a document either the constitution must be so amended as to conform to the document carrying the defect, or the document must be subject to the fundamental law in the application to be made of it. Now, what are the facts in the case ?

1. Congress did so amend the document as to subject it to the fundamental laws, and to the past and future legislation by Congress. They did subject the whole Strip Agreement to these, and as the question in hand was a part of said agreement, that question must rest where it is—yea, must forever rest there unless by legislation from Congress it shall be given renewed activity.

This you wont deny unless you have reached the conclusion that all questions involved in said amendments were questions so little as to demand those wise, and we trust, good Congressmen, to make playthings of them.

Your opinions, as represented by the press, would seem to be based upon the inevitable conformity of the fundamental laws, to that paper known by you and recognized by me as the "Strip Agreement". Congress, if making a plaything of the whole matter, the cash included, may conform to your views by conforming the constitutional law to the man—plaything. This done you will have a plea to "judiciously invest" the \$5,000 "freight money" for which you call, and the question ends in the loss of the cattle.

May God give you great impetus to the accomplishment of just and honorable results.

I remain yours in much hope,

N. J. CRAWFORD.

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MARKHAM, I. T., }  
October 30, 1895. }

*Col D. M. Wisdom, Muskogee, Ind. Ter.*

DEAR SIR : To fortify the position of my first, and also

to demonstrate the unjustifiable position you have assumed on the intrusion question, I write the second letter, and through the same medium.

1. Is it not a fact that all treaties made with the Indians by the United States Government, where the leading thought was future citizenship by the Indian in the United States Government, carry marked and undeniable evidence in their written form, of a purpose by the General Government, to hold the right of review and redress ?

2. Will not an analysis of the treaties prove that this right of review and redress was intended to cover all grievances that might arise in such Indian countries, in the varied relations of tribal life, in their intercourse with whites ?

3. Is it not true that out of that purpose, so marked and unmistakable in the treaties, sprung the conception which lead to the organization of the Indian Bureau ?

4. Is it not a fact that jurisdiction of review and redress was lodged with said Bureau, and that it has executed the purpose indicated in the treaties for many years ?

Will you or not say with me that this long promised jurisdiction is now lost by that department over the question in hand ? Are you not forced to do so, since Mr. Hall's recent opinion ? By the authority couched in that opinion I must affirm that the Intruder Department has now no jurisdiction over the question of citizenship and intrusion in the Cherokee Nation !

While Mr. Hall announces this startling fact, and gives some incite as to how it was lost, he refrains from any taxation to his legal and analytical powers to detail now, but

leaves that question to deduce by inference, such conclusions as might best suit them severally.

The deduced inferences from that opinion have been diversified, and as a rule, very erroneous ; and the conclusion reached and nursed with much complacency by many, are very illogical.

Into this whirlpool of "incorrect inferences" you seem to have fallen, and in that fall I think you must have lost your official compass and chart.

Let us inquire honestly and with candor for the logical inferences to be gathered and clustered around the Hall opinion, in which he disclaims for the Department jurisdiction over the citizenship and intruder questions in the Cherokee Nation.

We infer, first : He must have recognized, necessarily, the original jurisdiction, for a thing is never lost that is not first possessed. Second : His opinion must have been intended as a notice, and of sufficient authority to suspend every executive officer connected with the Department, thus disclaiming jurisdiction in the matter pointed out in that opinion. Does not lost jurisdiction imply the loss of executive functions and the suspension of the functionaries ? Third : Mr. Hall doubtless regarded the stipulations of the commission to negotiate for the Cherokee Strip as unconstitutional. In this he was authorized by the opinion of Congress, as indicated by their amendment to the agreement.

Fourth : Mr. Hall must have seen that under the authority with which said commission was clothed, to lug in the

intruder question and make it a part of the price for the land in question, even if it did take the birthright of Cherokees, was to filch, and suspend jurisdiction in this question until Congress should receive and act on their work. He saw that when Congress ratified, by so amending as to heal their breeches of the Constitution, and subjecting to future acts of Congress, that there and then the jurisdiction, up to now, in the hands of said commission after ratification by council, and which was suspended, would be transformed and transformed - transformed from a suspended provisional jurisdiction, and transformed from the hand of the commission to that of Congress.

Fifth. I think the only logical inference to be deduced from Mr. Hall's opinion is that which combines it with the amendment to the Strip agreement, and thus necessitates an opinion as a notice to Congress that a provisional jurisdiction is now all that is existing, and thus remind Congress of the necessity for a provision. He recognized Congress as a law making court and virtually says you should create a court by law, clothed with executive jurisdiction in cases of citizenship and intrusion in the Cherokee Nation.

Mr. Hall's opinion, thus analyzed, and coming with the amendment to the Strip agreement, ought to satisfy any reasonable mind that the present jurisdiction is only provisional, and that any cause pending under it for final adjudication, must lay dormant until such provision is made.

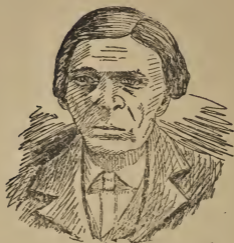
How a man of your goodness of heart and clear legal conceptions could fail to be informed at least to consideration

on this subject, may ever remain a mystery to the writer. Such consideration from your office would have done very much, both materially and morally for all involved in this unfortunate family dispute.

Fraternally yours,

N. J. CRAWFORD.

## MALICHI WATTS.



FATHER OF THE WATTS FAMILY—SKETCH OF A REMARKABLE  
MAN.

Malichi Watts was born in the State of Georgia about 1790. He was raised on a farm and when about 22 years of age he married Delila Gray of Alabama. He moved to West Tennessee about 1820, where his wife died leaving three children Solomon, Garrett and Delila. He afterwards married Susan M Toler of Haywood county, Tennessee. He resided in Gibson county until 1853. There were nine children by the marriage, three boys and six girls who all lived to be grown and married except two sons, Garrett and Malichi, who died at

the age of 21. In 1853 the entire family moved west, aiming to come to the Cherokee Nation, but they stopped in Johnson county, Arkansas, where they resided until January, 1871.

He died at the ripe old age of 82 years. There is now living two sons, Marion J. and W. J., and four daughters, Mrs. Fannie Taylor, Mrs. Susan Smith, Mrs. Martha Payne and Mrs. Jane Taylor, the youngest, who is 45 years of age.

Uncle Malichi, as he was commonly called by all who knew him, had a large circle of friends and acquaintances and was considered the best trader in West Tennessee. He spent the most of his life buying and selling stock, often driving 400 miles to find a good market. He was noted as a great hunter in the early history of West Tennessee. On one occasion, when unarmed and accompanied only by his dog, he was attacked by a large panther, which, after a long struggle, he succeeded in killing with a hand spike. It was the largest panther ever killed in West Tennessee.

He was a Cherokee and spoke the language fluently. He was always of a cheerful disposition and if he had an enemy he did not know it. He has now living six children, thirty-eight grandchildren, 122 great grandchildren and ninety-seven great great grandchildren, total number 263, most all of whom are living in the Cherokee Nation, besides forty-eight who died in this nation since 1871, making a total of 311 in all, the offspring of one man.

There has never been a discord in this family except by division caused by the late war, when about one-half of the family took sides with the North and the other with the South, M. J. Watts being a strong Republican and W. J. Watts a

Democrat, with family following on either side. Since the late war the family have all located in the Cherokee Nation, and all are noted for thrift and enterprise, and, notwithstanding their large number, there is nothing on record showing that any member of the family was ever convicted of any crime against the laws of the country in which they live.

Strange to say there is not an old maid nor bachelor in this large family, all marrying rather young, and mostly in good circumstances, attributed to their industry and enterprise. Most of the family are members of some church or benevolent society, and are noted for their sociability and benevolence.

A peculiar and marked trait of the Watts family is their annual family reunions, which have been celebrated for years. There is a family reunion once a year at Muldrow, Cherokee Nation, the home of W. J. Watts, where a good portion of the family resides, when ample arrangements are made to feed the multitude invited by the family, friends and relatives, sometimes feeding as high as one thousand persons in one day. These reunions are highly interesting and beneficial, uniting all in hearts and hands, reviving old and pleasant memories of the past.

Reunion day is opened by religious exercises. Then follows singing from old books, such as the older members of the family used to sing in the days of their youth—good old fashioned songs of days when they were young. This is followed by short speeches and declamations by members of the family, appropriate to the occasion; then relating incidents

and reminescences of early life—the benefits of perpetuating friendship and family ties by social intercourse and harmonious actions. These exercises always close by songs of praise the Giver of all Good, in which all present unite.

All members of the Watts family look forward each year with much interest to the day of the reunion, in remembrance of their good ancestor, MALICHI WATTS.

J. S. H.

## WHY ALLOTMENT ?

1. Because it is simply a farce to perpetrate a petty sort of foreign government in the midst of the United States. The civilized Indian is no longer a "baby ward", or under age, but is able to take care of himself, and accept statehood in common with his white brother. For the past twenty-five years this Indian government has been run in the interest of a few political tricksters, until the very name politics in our nation has become the synonym of all that is rotten and rascally. There are good men in our councils, but they are in the minority and have but little voice in honest legislation.

2. Because of the wide-spread monopolistic evil that rests as a heavy burden and nightmare upon the large majority of our poor Indians and citizens. Never, in the history of the Cherokee Nation especially, has there been so many thousands of acres of fine land fenced in by the rich and greedy cattle barons as in the past two or three years. In driving through the country a person is compelled to go miles out of the way in order to reach his destination, the land monopolist having stretched his wires around thousands of acres of land he has no more right to than a native of the South Sea Islands. The country needs to be sectionized, must be sectionized, and that as soon as possible, if the large majority of the Indians are to be treated with the honest consideration they are entitled to from the paternal government of the United States. We are sincerely and earnestly anxious that this be done by the United States, for it is simply impossible to expect anything of the kind from an Indian administration, there being too much self interest at stake.

3. Because there has existed for a good many years a body of fossilized missionaries, who draw their sustenance from the various missionary boards of the sects occupying the Territory, who are opposed to allotment, simply because it would affect them adversely ; that is, their ecclesiastical rations would be cut short. The Indian has been a source of income to them, and some of the tallest kind of religious (?) lying has been done in past years, and is still being done. Every now and then a brightly educated Indian boy or girl is taken back east or north, dressed in the gaudy costume of some wild Indian tribe, put on exhibition, and money in abundance flows in the pockets of the devoted (?) missionary, the unsuspecting white people donating, in not a few instances, their shekles toward furnishing luxurious surroundings and appointments for the quondam missionary. Allotment would have a tendency to break up this delusive game.

In short, there are many reasons why the present state of affairs should be radically changed. We are desirous, as Indian, both by blood and adoption, that the welfare, both spiritual and temporal, of our people be improved. and also long for the time when the title of "American Indian" shall be changed to that of "Indian American." And further we hope and pray that the time is not far distant when the eyes of the red man, and all interested in him from the humanitarian standpoint shall be opened, and that the great government of the United States will speedily act in the matter, granting our poor Indians deliverance from the yoke of bondage that now binds more than ninety five per cent. of the population of the five civilized tribes. — "John Three Sixteen."

## ALLOTMENT IDEAS.

ECHO, Ind. Ter., {  
August 10, 1891. }

*Editor Chieftain :*

Since the election is over I suppose you will have a little more space to devote to questions other than political. Though the allotment question might be considered a political one I will nevertheless venture a few thoughts in relation to it. Inasmuch as the question has been brought fairly and ably before the people by your valuable paper during the campaign just closed, I desire to see it still further presented and discussed, as in my opinion we will all have to agree sooner or later and allot this country for self protection. I would suggest that the allotment movement be an original one, with a president and other necessary officers, so as to insure united and aggressive action at once. A petition might be circulated asking Congress to assist us in the matter. The settlement of the intruder question should be attended to first. A joint commission is the most popular plan I have yet heard. If we do not do this Congress will clothe the Territory United States Courts with jurisdiction and the citizen question will be settled in them, which latter course is to be greatly feared, as we would not stand much show of being duly recognized. But if we do not take hold and do something the United States will do it for us, and it is needless to say that the Indian will "get left." Now the wise policy would be always to take the initiative in any movement that is so far reaching and portentous as the one in question.

I for one do not want my rights and those of my family exposed to the action of council, because they are not safe. I

do not mean to reflect upon our members of council for I believe they are good men, but it is too much power to place in their hands. The Congressmen in the States have no such power over their constituents as our councilors and senators have, for our very homes are in their hands, and the great, greedy United States Government stands ready to ratify every land sale that our council can be induced to make. And in addition to all this we are at the mercy of the monopolist; never before was there such a premium on wealth. I know one man who owns twenty-two farms, nearly all of them made by and in the hands of non-citizens as leasers, who are promised the exclusive use of them for from five to ten years. Now I do not think that this should be allowed as it excludes citizens from settling on the public domain. I believe every one should be restricted to their pro rata share of land and grass. I do not condemn the cow men by any means; it is our laws that are wrong. The cattlemen that I know are good citizens; they are only taking advantage of our stupidity in holding our lands in common. They have a right to graze our prairies to the ground and there is no limit to their privileges. It is the law we ought to remedy and not spend our time fussing at the cow men. If we would individualize our land title they would pay us for our grass without a word. We cannot expect our grass to go up in smoke every fall; we must either plow it up and cultivate the ground or allow it to be grazed by the much talked of Texas long-horn, for we are living in an age of progress and enterprise and we must keep up with the tide of human progress.

We are trying to hold lands in common when the history of the world abounds in proof that it has always been a failure. The principal cause of disruption among the early colonists of New England was holding land and other property in common. And to-day not one single state in the great union of states is holding lands in common. They know that they cannot successfully do it.

There is something in the human make up that craves a home that they can call their own ; one over which no one else has any authority and one that they can vouchsafe to their posterity ; one over which no council has power to negotiate or legislate.

Then give us our homes ; let every family have a home, not to be held in common, but our own private, indefeasible property. Home that word around which clusters so many tender memories. That ship of state. That bulwark of freedom. No nation can survive without homes ; then let us have them in our own individual names.

CHEROKEE.

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### INDIANS FOR ALLOTMENT.

The Indian citizens of Canadian district, Cherokee Nation, are, as a class, intelligent and well to do people. Not a few of the leading political lights of the entire nation reside in this district and it has always produced more than its share of prominent men and patriotic citizens. There has been a great awakening among the Canadian citizens the past few weeks. They have been considering with themselves and with others

the present condition of affairs and the outlook in the future as regards their lands. Being reasonable men and men who take care of their families and desirous of leaving an inheritance to their children, they realize the sore straits into which they are being crowded. They see that their landed interests are constantly slipping away. They realize that while the number of citizens and claimants is constantly on the increase and know full well that every day marks a decrease in the per capita share of each citizen. After holding meetings and weighing well all the circumstances they have almost unanimously come to the only logical and just conclusion possible. They want their lands and they want them allotted quickly. They want to see in person the Senate committee that is soon to visit the Cherokee Nation and lay before this committee the facts just as they are and show to the committee that these boo-boo politicians and lobbyists do not express the sentiment of the common citizen when they cry down allotment and progression as being unjust and unwished for by the average Indian citizen. —Mus-  
kogee Phoenix.

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### CRIME IN THE TERRITORY.

Governor Fishback, of Arkansas, has sent the following letter concerning the state of affairs in Indian Territory to President Cleveland, which has been published all over the country and attracted much attention :

Executive Office, LITTLE ROCK, }  
December 22. }

*To the President.*

DEAR SIR: The developments incident to the recent

train robbery and murder at Olyphant, in this State, renders it proper, it seems to me, that I call your attention to the dangerous relation which the Indian Territory west of us occupies to the States of the Union, and especially to the adjacent States of Arkansas, Kansas, Texas and Oklahoma Territory.

Upon the person of one of the captured robbers was found a map of the route they had taken from the Indian Territory 175 miles, to the scene of the robbery. and also a map of the country around Chattanooga, Tenn., showing that another robbery was contemplated at or near that city.

It also appears that the captured leaders are noted characters in this business and inveigled some very respectable citizens along the border into the robbery.

I have good reason to suspect that a very large percentage of the bank and train robberies which take place west of the Alleghanies and east of the Rocky Mountains are organized or originate in this Indian Territory.

Let me also add that the refuge which this sparsely settled rendezvous of outlaws affords to criminals is a constant temptation to crime in all the country around.

During the past twelve months there have issued from the States of Arkansas, Texas and Kansas, and Oklahoma Territory, sixty-one requisitions upon the Indian Territory authorities for fugitives, while we have reason to believe that as many more are hiding among their comrades in crime in this asylum of criminals

Those criminals who find a refuge in this Territory are

rapidly converting the Indian country into a school of crime. They are demoralizing the Indians and are especially stirring up the young Indians to deeds of blood and theft. Young Starr, for example, although less than 20 years of age, and of fine capacities, has been charged with almost every crime in the catalogue and is now sentenced to death for murder. The records of the Federal Courts of Paris and Fort Smith reveal a startling story in this direction, yet they do not tell one-tenth of the whole story.

Prior to the late civil war I resided in the city of Ft. Smith on the border of this Territory. The merchants of this place did \$500,000 worth of business in that country every year. Their clerks would make periodical collections, traveling openly and known to have large sums of money with them, yet nobody was ever molested—travel was safer than in the States.

Now, according to an estimate of one of the newspapers published a year or two since in Muskogee, the number of murders reached the appalling figure of 200 in one year that were not cognizable in the Federal Courts. The Federal jail at Fort Smith is at all seasons nearly full of prisoners from this Territory and the Federal Court holds sessions continuing nearly every month in the year.

This state of semi-chaos and the farces of the government in this Territory, rendering it a constant menace to the peace and order of all the States of the Mississippi valley, suggests the very serious question whether the time has not yet arrived for the Federal Government to assert its right of eminent do-

main over this part of the national domain, and to change its political relations with the United States.

WM. M. FISHBACK.

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### COMMISSIONER MORGAN'S REPORT.

The sixteenth annual report of the Commissioner of Indian Affairs has been submitted to the Secretary of the Interior.

The report discusses at considerable length the political status of the Indians, tracing the evolution of the present policy of dealing with the Indian wards. As the result of the historical survey, the commissioner draws the following practical conclusions :

1. During the whole course of our history the Indians of this country have been treated as separate communities, sustaining exceptional relations to us. They have been regarded as having relations directly with the General Government alone and not indirectly through the states or to the states.

2. That the fiction of regarding them as independent peoples has been displaced by the theory of regarding and treating them as wards of the General Government.

3. That the purpose of the Government, as has been made more and more evident, is to change their status from that of wardship to that of citizenship.

4. That during the transition period and until the completion of their citizenship they should be regarded as subject to the laws of the general Government and under its care and guardianship.

5. That the time has come for a declaration by Congress to the effect that hereafter it will not recognize the Indians as competent to make war, but in our dealings with them they should be treated not as belligerents, but as subject and dependent people, capable, of course, of insurrection, rioting or disturbance of the peace, but not of waging war.

6. That the General Government has the right, both for its own protection, for the protection of the public welfare, and for the good of the Indians, not only to establish schools in which their children may be prepared for citizenship, but also to use whatever force may be necessary to secure to the Indian children the benefit of these institutions.

7. I submit that the time is at hand for an extension over the Indians of the protection and privileges of our courts. Meanwhile the development of Indian reservations, of the courts of Indian offences, by the perfecting of their code of procedure and the enlargement of their jurisdiction will be helpful as a preparation for complete participation in our common life.

8. I venture also to suggest whether the time is not at hand for the passage of an enabling act whereby the five civilized tribes may form either a Territorial or a State Government and be represented on the floors of Congress.

Regarding the reduction of the reservations, which has proceeded with great rapidity during the year, the report says:

While it is possible to push this work too rapidly, perhaps, I do not hesitate to say that the ultimate destruction of the entire system of reservations is inevitable. There is no

place for it in our present condition of life. The millions of acres of Indian lands now lying absolutely unused are needed for homes for a very rapidly increasing population, and must be utilized. Whatever right and title the Indians have in them is subject to and must yield to the demands of civilization. They should be protected in the permanent possession of all the land that is necessary for their support and whatever is ceded by them should be paid for at its full market value. But it cannot be expected under any circumstances that these reservations can remain intact, hindering the progress of civilization, requiring an army to protect them from the encroachments of home seekers and maintaining a perpetual abode of savagery and animalism.

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### THE "INTRUDERS".

TAHLEQUAH, I. T., }  
December 23, 1893. }

*W. J. Watts, Muldrow, I. T.*

MY DEAR SIR: I write for information concerning the Citizenship Association. Let me hear from you about what your prospect's are for finally succeeding in getting proper recognition. Write me fully on the subject as there are a great number of claimants for citizenship and some of us have been asking this body to act on our cases for years, and we have come to the conclusion that it will be impossible to get justice at the hands of this people, and we are thinking of either joining the Citizenship Association or organizing our selves into a similar association, and in union there is strength

and we could perhaps come to some understanding so that we could unite our forces in assisting each other in getting proper recognition before the Interior Department or some other tribunal for properly adjudicating our claims.

We are sure that we could throw as many as 300 good claims into the association, and no doubt we will form some plan that will be mutually beneficial.

Hoping to hear from you soon and fully on the subject I am with great respect, etc.,

J. L. SKAGGS.

Box 66, Tahlequah, I. T.

P. S. Answer immediately or come in person, as we will want to know what steps to take in the matter.

J. L. S.

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MULBROW, I. T., }  
December 13, 1893. }

*J. L. Skaggs, Tahlequah, I T.*

DEAR SIR: Replying to your letter of the 12th inst. would say that it is impossible for me to go to Tahlequah at this time, having been from home for several days at Muskogee and other places in the interest of the Citizenship Association. We are expecting Congressional aid or relief of all claims of claimants who can show good proof of Cherokee blood. Any bill passed by Congress for the allotment of lands will settle the citizenship business.

I am aware that there are a good number who have just claims for citizenship in this nation, whose cases have been

ignored by the Cherokee Council, who have been prejudiced against the Citizenship Association through misrepresentation. You say you represent this class of claimants and desire to connect them with Cherokee Indian Citizenship Association for mutual strength and benefit, looking to just settlement of their claims. We would gladly receive them in our usual way, first by their own declaration and prima facie evidence of Cherokee blood, second, by the head of each family paying a membership fee of \$6, and \$1.25 quarterly dues.

We have able counsel at home and at Washington to look after the interests of the association, and as the object of organization is to protect its members, we cannot recognize the authority of any attorney or other persons to exact large sums of money from citizenship claimants. We do not object, however to attorneys collecting reasonable fees from claimants for preparing papers and getting proof in proper form.

Our constitution and by-laws are open to the public for inspection, and all business of the association is done on the square, open and above board. We claim to be representing honest claimants for Cherokee citizenship, according to treaty stipulations, and solicit no other. That we have been badly treated and misrepresented by the Cherokee authorities is well known.

I will be glad to meet you in the near future, at any place you may select on the A. V. & K. railroad, but prefer Wagoner, when I will entertain any reasonable and just proposition you have to make in the matter mentioned.

Respectfully,

W. J. WATTS,

President Cherokee Indian Citizenship Association.

## THE EASTERN CHEROKEES.

Years ago, near the beginning of the present century, when the eyes of the white man were first turned covetously upon the hunting grounds of the powerful tribe of the Cherokee Indians in Alabama, Georgia and Tennessee, the movement began which placed the dusky redskins west of the Mississippi river and resulted in cooping the majority of those who survived in the present Indian Territory.

But not all of the Cherokees were driven across the Father of Waters by the greed of the pale face for land. It was accomplished by slow and painful degrees. The Indians did not want to leave their accustomed haunts for land in the White and Arkansas valleys, and a treaty with the government in 1819 showed that two-thirds of this tribe were still east of the river. The Government for a long time pursued conciliatory means to move them. Special inducements were offered, including a rifle, blanket, kettle, five pounds of tobacco, cost of emigration, and compensation for property taken, to each of those who moved. In 1835 the Cherokees still occupied territory equal in extent to the States of Massachusetts, Rhode Island and Connecticut near their old hunting grounds and it was then that the Government, finding all peaceful methods to dislodge them futile, decided to drive them out. The conflict up to 1846 was the old, old story of warfare between the white man and the red, but in this instance it did not quite result in the latter's extermination, and it certainly failed to drive poor Lo from his chosen home. So, in 1846 a treaty was concluded allowing the Indians who were there to remain east of the Mississippi.

This was the origin of the Eastern Cherokees, a term later dignified by the conferring of a corporate existence upon them by the State of North Carolina, and the ruling of the United States Courts that they were not eligible to benefits accruing to the main body of the tribe who had emigrated to the West. They were much scattered at that time and badly disheartened, but the census of 1890 shows that this branch of a great Indian tribe has certainly taken new life upon itself. Thrown upon their own resources, these Indians have developed a sturdy self reliance entirely at variance with the accepted idea of the Indian, and are industrious, self-supporting, tax paying citizens and voters, North Carolina claiming 1,520 of them, Georgia 936, Tennessee 318 and Alabama 111.

It is as moral and law-abiding holders of the electoral franchise that interest chiefly attaches to these Indians just now. Sprung from the same line as the Indians of the Territory, following the same trails and sitting around the same council fires, they must have had the same nature and capacities. The band has been nourished by the Government, not exactly as a mother nourishes her offspring, 'tis true, but they have made progress chiefly through the aid of white "aliens", but the question is being seriously agitated whether they are the right material of which to make citizens of the United States. A practical demonstration is at hand. The Eastern band of Cherokees were thrown upon their own resources. With civilization encroaching upon them from every side they had either to become civilized or to perish. They became civilized. Not with any noise or bluster, but with a quiet that suffered them for a time to drop quite out of sight and attention until they were rescued by the inquisitive research of a

modern census taker. The Eastern band was incorporated in 1889 under the laws of North Carolina, and has a chief and grand council. The chief's name is Nimrod J. Smith, but his Indian name is Charley the Killer. The suspicion should be dispelled that these Indians are of the goody goody kind, so common in novels. They do naughty things, sometimes, but they punish each other according to the laws of their States, and they furnish less criminals than the white people to the same number. They own the tract in Cherokee, Graham, Jackson and Swain counties in North Carolina known as the Qualla boundary and including 65,000 acres. Their farms are small and well worked, and kept in very good condition. The men are generally industrious and intelligent husbandmen, the women careful housewives and good mothers, the result being a considerable net increase in the number yearly. Several religious denominations are represented among them, and good schools which they support, including an ambitious manual training school.

This is the brief story of the Eastern Cherokees. They might have perished miserably as other tribes have done, by their own foolhardiness in opposing a superior force. But they did not. They not only survived to tell the story of oppression, but they blazed the way for other Indians to follow. They have proven conclusively that the Indian is not an animal, and that even the full-blood, accustomed to depend upon the Government's provision, may be transformed into an honest, useful and patriotic citizen of his country. The value of such an example in the present state of feeling regarding Indians of the Territory is incalculable.

## HOLMAN ON INDIAN AFFAIRS.

Chairman Holman, of the Committee on Indian Affairs in Congress, is reported by the Kansas City Journal as having expressed the following views :

He stated that while he had a very small task in this Congress, comparatively to perform, he intended to give it attention to the extent of getting as many of the reservations open to settlement as possible.

He had been convinced that all the reservations should be thrown open as soon as possible, and he would adhere to that policy. He proposed, very soon in December, to have all the bills ratifying treaties reported favorably and before the house, and he would do all he could to get them through.

He also stated that he was convinced that it was time that all tribal relations in the Indian Territory should be abandoned, and that the Indians should take lands in severalty and in time become citizens of the United States. He stated that he would do anything in his power to wipe out the present regime in that country, for he looked upon it as an inviting place for bandits and robbers to reside and suggestive of lobbyist plunder. He thought it would be a good plan to dispose of this condition of affairs as soon as possible.

## HURRAH FOR STATEHOOD.

---

Hurrah for the good time coming;  
Statehood will soon be here.  
Proclaim it on the house tops,  
And sound it far and near.  
This is a favored country,  
Rich—with resources great—  
Times will be flush and booming,  
When the Territory becomes a State.

Hurrah for allotment !—Statehood !  
For Progress and Enterprise,  
Advancement and manufacturies,  
Progress, and growth, likewise.  
Then will this country prosper,  
Develop, and be great;  
The favored few will "take a walk"  
When the Territory becomes a State.

The land will teem with plenty,  
And towns like magic rise;  
The hillsides rich with vineyards,  
The land with enterprise—  
"The garden spot of the Union,"  
Expansive, rich and great—  
Jeff Watts will be in Congress  
When the Territory becomes a State

J. S. HOLDEN.

Muldrow, Ind. Ter.

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PUBLISHED AND EDITED BY

**J. S. HOLDEN,**

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